

**In the Court of the Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur**

**Present:- Thiru.A.Kanthakumar, M.L.,
Principal District and Sessions Judge,
Monday, this the 08th day of June' 2026**

I.A.No.06/2024

in

O.S.No.38/2023

CNR.No.TNVR01-000881-2023

1.G. Deepak

2.G. Deepika

... Petitioners / Defendants 2 & 3

/Vs/

1. K.S.Ramasubramaniyaraja

... 1st Respondent / Plaintiff

2. G. Krishnaveni

... 2nd Respondent / 1st Defendant

This petition coming before me for final hearing on 02.06.2026 in the presence of Tr.S.Sankaranarayanan, Advocate for the petitioners and Tr. P.Sankarkumar, Advocate for the 1st respondent, Tr. N.M. Rajasimman, Advocate for the 2nd Respondent but who was not filed any counter in this petition, and upon hearing the argument of petitioners and 1st respondent sides and perusing the records, this Court delivered the following,

ORDER

This petition has been filed by the petitioners/ 2nd and 3rd defendants under Order VIII Rule 9 of the Code of Civil Procedure seeking permission to receive the additional written statement filed by them and to proceed with

the trial of the main suit.

Petition averments in brief:-

2) The petitioners herein are 2nd and 3rd defendants in the main suit. The 1st respondent/plaintiff has filed the suit alleging that the petitioners' father, Gurusamy, and their mother, the 2nd respondent/1st defendant, borrowed a sum of Rs.20,00,000/- from him on 13.02.2020 under four promissory notes and executed the said promissory notes in support of the loan. Since the alleged loan was not repaid, the plaintiff has filed the present suit for recovery of money by making false allegations. As the petitioners were busy with their respective work, they filed vakalat through their mother, namely the 2nd respondent/1st defendant, and adopted the written statement already filed by her. Now, when the suit is posted for trial, the petitioners' mother is still suffering from the shock and grief caused by the death of their father. Therefore, she is not in a position to come out of the house, meet the advocate, and provide instructions for conducting the case. Hence, the petitioners decided to conduct the suit separately and engaged a separate advocate. After examining the case records, the advocate advised that an additional written statement should be filed on behalf of the petitioners to properly explain their defence in the suit. If such an additional written statement is not filed, serious difficulties may arise while examining witnesses and producing evidence on behalf of the petitioners. If the

petitioners are not allowed to produce and examine witnesses, they may not be able to prove their case in the suit. Therefore, it is necessary and just that the additional written statement filed by the petitioners/ 2nd and 3rd Defendants be received and accepted by this Court. Hence, the petitioners pray that this petition may be allowed.

Counter averments in brief:-

3) The respondent herein is the plaintiff in the main suit. The petition filed by the petitioners is false, frivolous and devoid of merits. The reliefs sought for in the petition are not legally available to the petitioners. Except those averments which are specifically admitted herein, all the allegations and averments contained in the petition are denied as false and contrary to facts. The petitioners are put to strict proof of each and every allegation made in the petition. The petitioners and their mother, who is the 1st defendant in the main suit, are living together as members of the same family. The petitioners have already entered appearance in the main suit through their mother and have adopted the written statement filed by her. Therefore, the petitioners are fully aware of the nature of the suit as well as the contents of the written statement filed by the 1st defendant. In fact, the petitioners have been conducting the litigation jointly with their mother i.e., the 1st defendant. Further, the petitioners are well aware of all the

particulars relating to the loan obtained from the respondent. The petitioners, along with their mother, are trying to avoid paying the money due to the respondent. They are acting in bad faith and are taking steps only to delay the case and prolong the court proceedings. Moreover, during the pendency of the suit, the petitioners have been involved in fraudulent transfer of the properties referred to in the attachment before judgment petition, which clearly reveals their malafide intention. The petitioners have filed the present petition solely with an intention to delay the trial of the suit. Hence, the petition filed by the petitioners is not maintainable either in law or on facts and is liable to be dismissed with costs.

4) No oral and documentary evidences let in on either side.

5) Now, the point for consideration is that whether the petition deserves to be allowed or not?

6) Both side argument heard and records perused.

Answer to Point:-

7)The learned counsel for the petitioner argued that suit for promissory note against the petitioner's father and mother. The petitioners parents have borrowed money Rs.20 lakhs and executed the promissory note in favour of the 1st respondent. The petitioners have filed already detailed written statement and issues are framed and case is posted for trial.

The petitioners have based to contest the above said suit against the 1st respondent, the petitioners have filed additional written statement.

8) The learned counsel for the respondent has argued that the petition is not maintainable either facts and law. The petitioners and 1st defendant living joint family and along with filed written statement and he has to know above facts of the suit. The petitioner and 2nd respondent colluded and drag on proceedings of the suit. Hence, he prays to dismiss the petition.

9) The petitioners have filed this petition seeking permission to file additional written statement. The additional written statement or reply statement are only statement. The averments or contention raised by each parties has to be proved by the party who was claimed that. So, it is only a statement and no prejudice would be caused to the respondents.

10) Furthermore, in case of **Olympic Industries v. Mulla Hussainy Bhai Akberally & Ors.** 7 the Hon 'ble Supreme Court held that even by filing an amendment or additional written statement, it is open to defendant to add a new ground of defence or to substitute or alter the defence or even to take inconsistent pleas in he written statement so long as the pleadings do not result in causing grave injuries/irretrievable prejudice to plaintiff. It was further observed that mere delay is not sufficient to refuse amendment of pleadings or an additional written statement. If there is delay amendment of pleadings or filing of an additional written statement under Order 8 Rule 9

of the Code of Civil Procedure, 1908 where no prejudice was caused to the party opposing such amendment or acceptance of additional written statement then it could be easily compensated by cost. So, in allowing this application, there would not be any prejudice. Hence, this petition deserves to be allowed and this point is answered accordingly.

11) In the result, this petition is allowed. No cost.

Dictated to the Steno-Typist, directly typed by her, then corrected and pronounced by me in open Court on this the 08th day of June 2026.

**Principal District and Sessions Judge,
Virudhunagar District at
Srivilliputtur.**

List of witnesses and documents on both side:- NIL.

**Principal District and Sessions Judge,
Virudhunagar District at
Srivilliputtur**

**Principal District Court
Srivilliputtur
I.A.No.6/2024 in
O.S.No.38/2023
Fair/Draft Order
08.06.2026**