

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, VIRUDHUNAGAR**

Present : **Tmt.S.K.ANGALAESWARI, B.A., B.L.,**  
**ADDITIONAL DISTRICT JUDGE,**  
**VIRUDHUNAGAR.**

Monday, the 25<sup>th</sup> day of August, 2025

**I.A .No.06/2025 in**  
**OS.No.03/2015**

R.Akilarani ... Petitioner/Plaintiff

Vs

1. Ramasamy (Died)
2. Chandhirasekaran (Died)
3. Vijayalakshmi
4. Sethurajulu
5. Jothilakshmi
6. Nirmaladevi
7. Pommukani
8. Yoga venkatesh
9. Ganesh

... Respondents/Defendants

This petition came up before me on 20.08.2025 for final hearing in the presence of Thiru.R.Padmanapan, learned advocate for the petitioner and R1, R2 were died, R3 and R5 endorsed that no counter, Thiru.P.Venkatesan, learned advocate for the 4<sup>th</sup> respondent and Thiru.M.Subburam, learned advocate for the 6<sup>th</sup> respondent Thiru.I.Ramamoorthy and learned advocate for the 7 to 9 respondents, and upon considering all material records in this case and having stood over till this day for my consideration, this court deliver the following . . .

**ORDER**

This Petition is filed Order 8 Rule 9 and section 151 of CPC to permit to file a reply statement on the side petitioner/plaintiff.

**2) The averments of the Petition affidavit in brief are as follows:**

The petitioner is the plaintiff In the original case and she filed a suit for partition. All the defendants in the original case have filed a written statement and posted for next hearing on 28.04.2025. The petitioner's lawyer called her and asked for explanations regarding the written statement filed by the defendants. It was then that she was given legal advice that she should file a written statement in response to the written statement filed by the defendants.

In the written statement filed by the 1<sup>st</sup> defendant, the 1<sup>st</sup> defendant has stated that he purchased suit schedule properties Item No.8 to 13 through his own means. It has also been stated that the 1<sup>st</sup> defendant has written a Will in respect of his properties on 16.03.2015. She have filed this petition seeking permission to file a Reply statement to refute the false allegations made by the defendants in their writtten statement. The petitioner will not be adversely affected by allowing of this petition. Therefore, the petition has been filed by the petitioner may be allowed.

**3) The averments of the Counter affidavit filed by 4<sup>th</sup> Respondent in brief are as follows:**

The petition is not maintainable in law and on the merits and is liable to be dismissed as is. The petitioner's claim that the interlocutory application should delay the original proceedings and thereby prevent the other defendants including this respondent from obtaining the original remedies, and the petition has filed in court only on the basis of bad faith after a long time.

On that basis, the additional reply statement of the petitioner is not acceptable to the court. Moreover, this respondent has already informed the court about the matters related to the Will in the original suit a few years ago. It is not in the interest of justice for the petitioner, who has remained silent all the time, to deny the matter and to seek permission to file a reply statement in the

court based on it by stating that he has come to know about it only now. Furthermore, the petitioner has not given a reason for accepting his reply in the affidavit on the basis of a clear and reasonable reason. Therefore, this petition should be dismissed with the costs of the 4<sup>th</sup> respondent.

4) **The averments of the Counter affidavit filed by 6<sup>th</sup> Respondent in brief are as follows:**

The petition is not maintainable in law and on the merits and is liable to be dismissed as is. The petitioner's claim that the interlocutory application should delay the original proceedings and thereby prevent the other defendants including this respondent from obtaining the original remedies, and the petition has filed in court only on the basis of bad faith after a long time.

On that basis, the additional reply statement of the petitioner is not acceptable to the court. Moreover, this respondent has already informed the court about the matters related to the Will in the original suit a few years ago. It is not in the interest of justice for the petitioner, who has remained silent all the time, to deny the matter and to seek permission to file a reply statement in the court based on it by stating that he has come to know about it only now. Furthermore, the petitioner has not given a reason for accepting his reply in the affidavit on the basis of a clear and reasonable reason. Therefore, this petition should be dismissed with the costs of the 6<sup>th</sup> respondent.

5) **The averments of the Counter affidavit filed by 9<sup>th</sup> Respondent and adopted the same by R7, R8 in brief are as follows:**

The petition is not maintainable in law and on the merits and is liable to be dismissed as is. The petitioner's claim that the interlocutory application should delay the original proceedings and thereby prevent the other defendants

including this respondent from obtaining the original remedies, and the petition has filed in court only on the basis of bad faith after a long time.

On that basis, the additional reply statement of the petitioner is not acceptable to the court. Moreover, this respondent has already informed the court about the matters related to the Will in the original suit a few years ago. It is not in the interest of justice for the petitioner, who has remained silent all the time, to deny the matter and to seek permission to file a reply statement in the court based on it by stating that he has come to know about it only now. Furthermore, the petitioner has not given a reason for accepting his reply in the affidavit on the basis of a clear and reasonable reason. Therefore, this petition should be dismissed with the costs of the 7 to 9 respondents.

**6. Point for consideration:**

1. Whether this petition is to be allowed or not?

**7. Points :**

i. Heard both side Argument. Petition affidavit and Counter affidavit filed by the Petitioner and Respondents and also records available in this case were perused.

ii. For the sake of convenience the parties are arrayed as per their rank in the suit.

It is the contention of the plaintiff that the defendants who are all appeared in this case were filed their written statement and the 1<sup>st</sup> defendant in his written statement avered that suit schedule 8 to 13 item of properties were belonged to him. Moreover the 1<sup>st</sup> defendant contented that regarding item no.8 to 13 of schedule of properties he executed a Will dated 16.03.2015. Therefore the present application filed by the plaintiff to deny the above said fact an way of Reply Statement.

On contrary to above said submissions of the contention of the R4, R6 to R9 are that the above said application was filed by the plaintiff intend to prolong the case proceedings.

By considering the overall facts and the circumstances of this case and by perusing the records this court finds that before going to the merit of the application it is just and necessary to extract a law namely Order 8 Rule 9 of Code of Civil Procedure hereunder,

*“9. Subsequent pleadings - No pleading subsequent to the written statement of a defendant, other than by way of defence to a set off or counter-claim, shall be presented except by the leave of the court and upon such terms as the court thinks fit; but the court may at any time require a written statement or additional written statement from any of the parties and fix a time for presenting the same.”*

Admittedly in the plaint, the plaintiff had not stated anything about the alleged Will at all. It is though the plaintiff was not aware of the Will. In the written statement, he has categorically stated that he executed the Will on 16.03.2015 thereby bequeathing the suit schedule item no.8 to 13.

At this juncture this court place reliance of Judgment of **Hon’ble High Court in Karpagam and another vs. E.Purushothaman and two others** reported in **2010 (3) CTC 282** held that,

*“When the Will is not potentially denied, there is no need for the propounder of the Will to examine the attestor”*

So this court has a considered view that for filing reply statement of the plaintiff is material. It is not the expectation in every matter that there is a reply statement. But, going by the peculiar facts and circumstances of the case such a reply statement have been filed by the plaintiff denying the execution of the

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Will. Hence such those circumstances, in this case filing of reply statement disputing either the existence or execution of the Will by taking a specific plea by the plaintiff is required.

Hence this court give some force to the averments mentioned by the plaintiff in her affidavit. Accordingly this court inclined to allow this petition.

In the result, This petition is allowed with cost.

Dictated to the steno-typist, directly typed by her in the computer, corrected and pronounced by me in open court, on this the 25<sup>th</sup> day of August, 2025.

Additional District Judge,  
Virudhunagar.

Witness and Exhibits on the side of the Petitioner: Nil  
itness and Exhibits on the side of the Respondents: Nil

Additional District Judge,  
Virudhunagar.