

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

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.B.**,  
Additional District Judge, Virudhunagar

Friday, the 14<sup>th</sup> day of October, 2022

**IA No.46/2022 in OS.No.51/2021 (C.F.2/2022)**

Manoharan ... Petitioners/5<sup>th</sup> Defendant

Vs

1) Muthumari ... 1<sup>st</sup> Respondent/Plaintiff

2) Ramanujam Ammal (Died)

3) Uma

4) Ananthi

5) Sivamuthu

6) The Sub Registrar, Sivakasi.

7) The Tahsildar, Sivakasi

... Respondents 2 to 6/Defendants  
1 to 4, 6 & 7.

This petition came up on 28.09.2022 for hearing before me in the presence of Thiru.S.V.Nagarajan, Learned advocate for the petitioner, of Thiru.N.Rajah Chandrasekaran, Learned advocate for the 1<sup>st</sup> respondent, of Thiru.M.Michel Bharathi, Learned advocate for the respondents 3 to 5, respondents 6 and 7 remained exparte and upon considering all material records in this case and hearing the arguments on both sides, and having stood over till this day for consideration and this court doth deliver the following

**ORDER**

Petition filed by the petitioner/5<sup>th</sup> defendant under Order 8, Rule 9 CPC and Section 151 CPC to receive additional written statement.

2. It is alleged in the affidavit that the respondent/plaintiff filed the suit for partition, permanent injunction and for declaration that the sale deeds dated

13.05.2016 and 19.05.2016 are null and void. In the above said suit, this petitioner/5<sup>th</sup> defendant has already filed written statement. Now only some material facts were came to the knowledge of this petitioner. Hence, stating the above facts, this petitioner has filed additional written statement and it has to be received by this court. By receiving the above written statement, the respondent will not be prejudiced in any way.

3. The 1<sup>st</sup> respondent filed counter with following contentions:

The averments that the petitioner now only got some materials facts relating to the case is false. The allegations in the petition are false. The petitioner has reiterated the contentions made in the earlier written statement and hence, this petition is vexatious in nature. The contentions stated in the additional written statement are false. There is suppression of material facts and this petition is vexatious in nature. Hence, the petition has to be dismissed.

4. There is no evidence on both sides.

5. The point for consideration is Whether this petition deserves to allowed?

**6. Point:**

This petition is filed by the petitioner who is the 5<sup>th</sup> defendant in the suit. This suit was filed by the respondent originally for partition and permanent injunction. Subsequently, by way of amendment the petitioner prayed to set aside the sale deed executed by 2<sup>nd</sup> and 3<sup>rd</sup> defendants in favour of 4<sup>th</sup> defendant and the sale deed executed by 4<sup>th</sup> defendant in favour of 5<sup>th</sup> defendant are null and void. Originally this petitioner/5<sup>th</sup> defendant filed his written statement on 18.09.2019. Now, this petition is filed stating that some new facts came to the knowledge of the petitioner and hence, the additional written statement is filed.

7. There is no contention in the counter filed by the respondent that the

petitioner now trying to introduce some contentions which are contrary to the earlier contentions. It is well settled that parties in the suits have to be given sufficient opportunity to put forward their pleadings. Only if it is seen that some contrary pleadings were made in the additional written statement or if any admission already made was taken away, the additional written statement cannot be received. Otherwise, the additional pleadings have to be received.

8. In this case, the plaintiff has filed IA No.228/2016 for amendment of pleadings. It was allowed on 06.03.2020. It is seen that after the said amendment, this petitioner/5<sup>th</sup> defendant has not given chance to file additional written statement. So, this court is of the view that the additional written statement filed by the petitioner/5<sup>th</sup> defendant can be received and hence, this petition has to be allowed.

9. In the result, this petition is allowed. No order as to costs.

Dictated to the steno-typist, typed by him, corrected and pronounced by me in open court, on this the 14<sup>th</sup> day of October, 2022.

(Sd.)T.V.Hemanandakumar,  
Additional District Judge,  
Virudhunagar.

Witness and Exhibits on the side of the petitioner:

Nil.

Witness and Exhibits on the side of the respondents:

Nil

(Sd.)T.V.Hemanandakumar,  
Additional District Judge,  
Virudhunagar.

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Additional District Court  
Virudhunagar  
IA No.46/2022 in OS No.51/2021  
**ORDER**  
Dated: 14.10.2022  
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