

**A.No.2938 of 2020**  
**in C.S.No.642 of 2019**

**C.V.KARTHIKEYAN J.**

This application has been filed seeking leave to file a reply statement to the written statement filed on behalf of the second defendant.

2. In the affidavit filed in support of the said application, it had been stated that though the suit had been filed, among other basis, on the strength of the execution of a sale deed on 31.03.2017 which had been executed by the first defendant in favour of the second defendant, after the written statement had been filed, the plaintiff had thought it necessary to include an averment questioning the validity of the said sale deed by way of the present reply statement.

3. Mr.R.Balachanderan, learned counsel for the second defendant however, took umbrage at this fact stating that an entirely new plea had been taken by the plaintiff directly shifting from the stand taken in the plaint. However, Mr.B.Arvind Srevatsa maintained the application stating that it is only a plea taken by the plaintiff subject to proof at the time of trial.

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4. Heard, I hold that it would not be proper to reject any pleading when it is introduced in Court without any formal application in that regard. Among the causes of action mentioned in the plaint, one of the causes of action stated was with respect to the sale deed executed by the first defendant in favour of the second defendant dated 31.03.2017. By filing the reply statement, the plaintiff seeks to introduce a plea that the said sale deed is not valid. Any averment in the plaint or in the reply statement or generally in the pleadings will necessarily have to be substantiated by admissible evidence oral and / or documentary in nature. An opportunity to that effect cannot be denied.

5. In view of that reasoning and particularly since there is no specific or significant shift in the cause of action. I hold that this application may be allowed and accordingly is allowed. No costs.

6. The reply statement is taken on file.

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