



WEB COPY



CRP.No.5475 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5475 of 2025 and
CMP.No.27581 of 2025

1.T.Mani
2. Raja
3. Ramamurthi @ Appadurai

... Petitioners

Vs.

1.Raju
2.Sengodan
3.Palanisamy

....Respondents

PRAYER :Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the Order and decretal order dated 16.09.2025 in IA.No.6 of 2025 in OS.No.244 of 2022, on the file of II Additional District Judge, Salem.

For Petitioner : Mr.N.Selvaraj

**ORDER**

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioners/defendants seeking leave of the Court to file additional written statement.

2. The respondents/plaintiffs filed a suit for bare injunction against the petitioners/defendants. According to the respondents/plaintiffs, the suit property originally belonged to father of the plaintiffs namely Kandasamy. There was a partnership arrangement between the father of the plaintiffs and the first defendant. The first defendant was allowed to enter the suit property as tenant. Subsequently, he vacated the premises in the year 2010. After taking possession from the first defendant, the plaintiffs removed dilapidated building in the suit property and put up a new building with asbestos roof sheet. The plaintiffs wanted to construct a pucca building in the suit property after removing existing superstructure. The same was opposed by the defendants by denying the right of the plaintiffs to put up new construction. Hence, the plaintiffs were constrained to file a suit for bare injunction.



3. The petitioners, who are arrayed as defendants, resisted the suit by denying the right of the respondents/plaintiffs over the suit property.

4. The trial in the suit was already commenced and P.W.3 is in box. After cross examination of PW-3, the defendants have filed instant application seeking leave to file additional written statement and the same was dismissed by the trial court. Aggrieved by the same, the petitioners/defendants have come before this court.

5. The learned counsel for the petitioners/defendants submitted that after cross-examination of PW-3, the earlier counsel for the defendants handed over the case papers and the defendants engaged a new counsel. Now, on the advice of the new counsel, the defendants have filed present application seeking leave to file additional written statement to raise the pleas which were not originally raised in the written statement. The learned counsel submitted that if the petitioners are not permitted to raise new plea by way of additional written statement, they will be put to irreparable loss.

6. It is seen from the typed set of papers that the suit is for bare injunction. The defendants already filed written statement denying the right and possession of the plaintiffs over the suit property. The trial was already



commenced and it is in the stage of cross-examination of PW.3. Now, the defendants want to raise a new plea as if the 3rd plaintiff sold the subject property in the year 2003 in favour of defendants. However, in the written statement, they also specifically denied the title of the plaintiffs including the 3rd plaintiff. Therefore, in the original written statement and in the additional written statement, the defendants clearly denied the title of the plaintiffs. However, they want to raise a new plea as if the 3rd plaintiff sold the suit property by way of unregistered document in favour of defendants. Having denied the title of the plaintiffs, the defendants are not entitled to claim the suit property was sold by the plaintiff. In such circumstances, the plea raised by the defendants will not help them in any way when the very title of the plaintiffs has been denied by them in the original written statement as well as in the additional written statement. The plea sought to be included in the additional written statement goes against their plea in original written statement.

7. Had the defendants purchased the suit property by way of unregistered document in the year 2003, the said facts should have been pleaded in the original written statement. The defendants have not given satisfactory reason for their failure to plead the said fact in the original written



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statement. Change of counsel cannot be a ground for filing additional written statement. Further, the unregistered document is seriously disputed by the plaintiffs. In such circumstances, the trial court is justified in dismissing the application filed by the petitioners/defendants seeking leave to file additional written statement. I do not find any material irregularity or illegality in the order impugned in this revision. Accordingly, the civil revision petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

10.11.2025

Index : Yes / No
Internet : Yes / No
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To

The II Additional District Court, Salem.



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S.SOUNTHAR, J.

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