



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 12.02.2026

Judgment pronounced on : 20.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.5510 & 5512 of 2025
& CMP.Nos.27707 & 27710 of 2025

S.Raja
S.Shanmugam

.. Petitioner in CRP.No.5510 of 2025
.. Petitioner in CRP.No.5512 of 2025

Vs.

B.Shantilal

.. Respondent in both CRPs

Common prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 05.08.2025 in I.A.No.6 of 2025 in O.S.No.58 of 2016 on the file of the Additional Subordinate Judge, Chengalpattu.

For Petitioner : Mr.Rishab Narayanan.S in both CRPs

For Respondent : Dr.A.Thiyagarajan
Senior Counsel
for Mr.S.Ramesh Kumar in both CRPs

COMMON ORDER

The defendants in O.S.No.58 of 2016 and O.S.No.60 of 2016, aggrieved by the dismissal of their application, seeking permission to file additional



written statement, are the revision petitioners in their respective revision petitions.

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2.I have heard Mr.S.Rishab Narayanan, learned counsel for the petitioner and Dr.A.Thiyagarajan, learned Senior Counsel for Mr.S.Ramesh Kumar in both the revision petitions.

3.The learned counsel for the petitioner, Mr.S.Rishab Narayanan, would state that though the petitioner had been set ex-parte in the suit and a decree came to be passed, the petitioner, after approaching this Court under Article 227 of the Constitution of India, succeeded in getting the ex-parte decree set aside. Thereafter, he has filed his written statement. It is the further contention of the learned counsel for the petitioner that after the written statement of the petitioner was filed, the plaintiff took out an application to adduce additional evidence and additional documents were permitted to be received by an order dated 20-11-2024. The learned Counsel for the petitioner, Mr.S.Rishab Narayanan would therefore state that the additional written statement was absolutely necessary, in order to meet the additional documents, that have been introduced by the respondent/plaintiff.



4.The learned counsel for the petitioner took me through the plaint and the documents exhibited, along with the suit at the first instance and contend that there is absolutely no reference to the additional documents and therefore ,an opportunity ought to be given to the petitioner to meet the same by filing an additional written statement. In support of his submissions, Mr.S.Rishab Narayanan has relied on the following decisions:

1.Olympic Industries Vs. Mulla Hussainy Bhai Mulla Abkerally and others, in Civil Appeal Nos.4148 to 4149 of 2009 dated 07.07.2009.

2.Lalith Kumar Jain @ Lalith Jain and another Vs. N.G.Deivasigamani and others in CRP.No.89 of 2018.

3.Minor Mahema and another Vs. J.Suganth and another in CRP.No.892 of 2013 dated 05.01.2016.

4.Ram Pratap Pandey Vs. Vidyadhar Pandey and others, reported in 2007 SCC Online Pat 35.

5.Muthusamy Vs. Thangaraj, reported in 2005 (5) CTC 785.

5.Placing reliance on the above decisions, the learned counsel for the petitioner would contend that when the plaintiff had not even pleaded about the documents, which are now permitted to be exhibited and marked, the petitioner cannot be taken by surprise and he should be given adequate opportunity to meet the same and only for such limited purpose, the application was filed, seeking permission to file additional written statement.



6. In fact, taking me through the contents of the additional written statement as well, Mr.S.Rishab Narayanan would contend that the suit has been filed by the respondent in his individual capacity, whereas the additional documents, that are now sought to be introduced and also permitted by the Court point to the fact that the cheque issued to the petitioners/ defendants was by a Company and not by the respondent, as an individual. He would therefore state that the very foundation of the suit claim and cause of action would necessarily be affected and it was only in this regard that the permission was sought for to file an additional written statement.

7. Per contra, Dr.A.Thiyagarajan, learned Senior Counsel appearing for the respondent/plaintiff would firstly state that there has been a clear reference to the payment made by the petitioner by way of cheque, even in paragraph 3 of the plaint. He would also contend that the petitioner, in the course of trial, has admitted in cross examination that he personally went to the bank, along with the plaintiff and collected the cheque amount. He would further state that the suit has been filed claiming under a mortgage deed executed by the petitioner and even the mortgage deed clearly records the fact of payment of the amount by cheque. He would further state that the cheque has been issued only in the name of the proprietary concern of the respondent/plaintiff and since the proprietary concern has no legal entity, the suit has been filed in the individual



name of the respondent/plaintiff. He would therefore state that there is absolutely no necessity to permit filing of an additional written statement and rightly the trial Court has dismissed the application.

8.I have carefully considered the submissions advanced by the learned counsel for the petitioner and the learned Senior Counsel for the respondent.

9.It is not a dispute that the respondent, as plaintiff filed the suit for recovery of money based on a mortgage executed by the petitioner. It is the amount secured by the mortgage that has been paid by way of cheque. The receipt of the amount is not disputed by the petitioner. The petitioner, in fact, as rightly contended by learned Senior Counsel, Dr.A.Thiyagarajan, has not disputed the receipt of money from the respondent/plaintiff, either in the written statement or during the course of his examination. He is now only attempting to take advantage of the additional documents, which reflect that the cheque issued to the petitioners/defendants was through a company, namely Shanti Finance Corporation and not by the respondent/plaintiff.

10.As already discussed, it is not the case of the petitioner that he never borrowed money or that he did not execute any mortgage deed. The mortgage deed refers to the very same payment that is covered by the subject cheque



dated 27-07-2024, which has been admittedly issued by Shanti Finance Corporation and not the respondent/plaintiff. In such circumstances, I do not see how there is any necessity for the petitioner to file an additional written statement.

11. In paragraph No.6 of the written statement, the defendant categorically admits financial transactions with the plaintiff and also execution of mortgage deeds by not only the defendant, but also his father. It is his case that there was no consideration for the mortgage deeds executed in favour of the respondent/plaintiff and that the documents were only executed as a measure of security and were not intended as a loan transaction. At paragraph No.7 of the written statement, the defendant admits that a bearer cheque was given by the plaintiff to the defendant and his father and that the plaintiff accompanied the defendant and the father to the bank and deposited two cheques to the tune of Rs.2,50,000/- each and got them encashed. However, it is the case of the defendant that the entire amount of Rs.5,00,000/- was taken by the plaintiff and no amount was given to the defendant. Therefore, when the defendant has set up such a defence to the suit for recovery of money, I do not see how the cheque being issued by a different entity and not the plaintiff is going to in any manner assist the petitioner in defending the suit claim.



12.Further, as rightly contended by Dr.A.Thiagarajan, learned Senior Counsel, it is the specific case of the respondent/plaintiff that the subject cheque was issued favouring the petitioner/defendant by Shanti Finance Corporation, which is a sole proprietary concern of the respondent/plaintiff himself. Therefore, I do not see any infirmity or error committed by the trial Court in refusing permission to the petitioner to file an additional written statement.

13.Coming to the decisions on which reliance has been placed on by learned counsel for the petitioner, in *Olympic Industries case*, (referred herein supra), the Hon'ble Supreme Court held that when an additional counter statement is sought to be filed, the Court has to see whether such additional counter would assist the Court in deciding the real controversy between the parties and if no serious injustice or prejudice is caused to the other side and the additional counter would help in deciding the real controversy, then the Court should permit filing of the additional counter statement. There is no quarrel with regard to the ratio laid down by Hon'ble Supreme Court. However, in view of the aforesaid discussion, the additional written statement in the present case is certainly not going to assist the Court in adjudicating the real controversies that arise for consideration between the parties.



14. In *Lalit Kumar Jain's case*, (referred herein supra), this Court following the decision of the Hon'ble Supreme Court in *Olympic Industries case*, held that additional written statement should be received liberally and it is not akin to the proviso under Order VI Rule 17 of CPC where amendment of pleadings is not permissible after commencement of trial. This decision also does not help the case of the petitioners.

15. In *Muthusamy's case*, (referred herein supra) also this Court referred to Order VI Rule 17 of CPC and made a distinction between Order VIII Rule 9 of CPC and Order VI Rule 17 of CPC. There is no quarrel with regard to this proposition. However, as already discussed and found, the additional written statement is not going to, in any manner, assist the Court in adjudicating the real controversies between the parties and therefore, the question of prejudice being caused to the other party does not even arise.

16. In *Ram Pratap Pandey's case*, (referred herein supra) and *Minor Mahema's case*, this Court granted permission only because a Will had been introduced at trial and the Court held that the defendants have every right to peruse the original Will and file an additional written statement, to meet the claim made under the Will. This decision also will not come to the rescue of the petitioner. In *Ram Pratap Pandey's case*, the Patna High Court held that a



pleading of a fact will have to be necessarily met and it was necessary to file a rejoinder, since evidence cannot be led without pleadings and when the document has been admitted in evidence, the other side as a matter of right, should be given an opportunity to contradict the same by filing an appropriate rejoinder and thereafter, lead evidence in support of the rejoinder. The ratio laid down in this case was on a factual situation where a document that was exhibited before the Court was without even a pleading. Therefore, the Court was of the opinion that an opportunity should be given to the other side to rebut such evidence, which has been admitted in evidence. In the present case as rightly pointed out by Dr.A.Thiyagarajan, learned Senior Counsel, even in the plaint in paragraph No.3, as well as in the mortgage deed, there is clear reference to the subject cheque and in such circumstances, when the petitioner has already filed written statement, I see no requirement to permit an additional written statement to be filed. For all the above reasons, I do not find any merit in these revisions.

17.In fine, the Civil Revision Petitions are dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

20.02.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.Nos.5510 & 5512 of 2025
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