



WEB COPY



A No. 5774 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**A No. 5774 of 2025 in
C.S.No.126 of 2024**

T.Senthilkumaran
S/o Late S.Thyagarajan,
2nd floor, New No.23, Thanikachalam Road,
T.Nagar, Chennai - 600 017.

..Applicant(s)

Vs

T.Shanmugapriya
D/o.Late. S.Thyagarajan,
W/o.Mr.U.Udayabaskar Reddy,
1st Floor, New.No.23, Thanikachalam road,
T.Nagar, Ch-17

..Respondent(s)

Prayer: Application filed under Order VI Rule 17 CPC read with Order II Rule 6 of Madras High Court Original Side Rules, 1994 to grant leave to amend the Written Statement and the Counter Claim.

For Applicant(s): Mr.Tanya Kapoor

For Respondent(s): Mr.P.S.Shashank for
M/s R& P Partners

ORDER

This application has been filed by the applicant to amend the Written Statement and the Counter Claim.



A No. 5774 of 2025

2. According to the applicant, he is the defendant in the main suit and the respondent, who is none other than the sister of the defendant, filed the main suit for partition. In the said suit, the applicant has filed the Written Statement along with the counter claim. Though the settlement deed stipulates equal ownership, the entire financial burden relating to the suit property *inter alia* redemption of mortgage in full, statutory payments, repairs, renovation, tax payments, maintenance and other expenses were borne by the applicant over several years.

2.1. The respondent / plaintiff's claim for equal partition fails to account for these material facts and substantial financial involvement of the applicant. In the written statement, the applicant pleaded that the respondent owes a sum of Rs.1,09,27,149/- with interest at the rate of 24% per annum to the applicant. The plaintiff ought to have sought for relief of redemption of mortgage, but she failed to do so, therefore, the Written Statement along with counter claim have to be amended as stated in the Judges Summons.

2.2. The applicant is also ready to pay the court fee, if he is permitted to amend the counter claim. Since the written statement and counter claim have already been filed and the trial has not been commenced, the amendments have to be allowed and the proposed amendments will no way change the



A No. 5774 of 2025

nature and character of the suit and will not include any fresh cause of action, thereby pleaded to allow the present application.

3. The respondent filed counter stating that the application is wholly misconceived and not maintainable and liable to be dismissed at the threshold. The amendments convert the simple partition suit into recovery of money on the mortgage, which is impermissible. Already the counter claim has been filed for relief of partition by paying court fee for the 50% share of the applicant. The present suit is based on the settlement deed dated 21.08.2002 under which both the applicant and the respondent are equally entitled to share over the properties. The applicant has not disputed the share of the respondent, now by way of the present amendment, the applicant is attempting to completely alter the nature and character of the suit by introducing new allegations for recovery of money based on the mortgage, therefore, the application is liable to be dismissed.

4. Heard the learned counsel appearing on both sides and perused the entire documents placed on record.

5. In this case, the plaintiff has filed the suit for partition based on the settlement deed in favour of the plaintiff and the defendant also admitted the



A No. 5774 of 2025

share of the plaintiff. However, the applicant / defendant filed the written statement along with the counter claim alleging that the property was mortgaged and the applicant redeemed mortgage and thereby filed counter claim for the above said amount paid by the applicant. Already the applicant / defendant filed the Written Statement along with the counter claim, now, seeking to amend the Written Statement and counter claim in respect of the above said prayer for mortgage money.

6. Already there are sufficient pleadings in respect of the mortgage money, however, there was no prayer in the counter claim and now the applicant by way of this application seeking to include the details of payment and the prayer seeking the said money and therefore, it is appropriate to allow the application to amend the counter claim in the written statement.

7. Since the applicant has not denied the share over the property and his claim is only in respect of the mortgage claim amount, it can be adjudicated by this Court after allowing the amendment application. That apart, the property involved in this case was subjected for mortgage and the mortgage money was allegedly paid by the applicant / defendant, therefore, it is appropriate to allow this application and accordingly, this Application is allowed.



A No. 5774 of 2025

WEB COPY

Registry is directed to carry out the amendment and the applicant is directed to file amended Written Statement along with counter claim and post the matter on 23.03.2026.

24-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

ssd



WEB COPY



A No. 5774 of 2025

P.DHANABAL, J.

ssd

A No. 5774 of 2025

24-02-2026



WEB COPY



A No. 5774 of 2025