



WEB COPY



A.No.5585 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 5585 of 2025

in

C.S. No. 345 of 2021

V.L.Vivekanandan

S/o Late Dr.K.V.Lakshmipathi,

No.5/3, Arathoon Road,Royapuram, Chennai - 600
013.

..Applicant(s)

Vs

I.Nazeer Ahamed

S/o.Late S.M.Ibrahim, No.70, Arathoon Road,
Royapuram, Chennai 600 013.

..Respondent(s)

To grant leave for Applicant to file the Additional Written Statement/Pleading in the above suit in C.S.No.345 of 2021 on the file of this Honble Court.

For Applicant(s): M/S.J. Abdul Hadi
S.Selvakumari

For Respondent(s): Mr.Avinash Wadhwani

ORDER

This petition is filed by the defendant in C.S.No.345 of 2021 seeking leave to file an additional written statement.



A.No.5585 of 2025

2. The original suit is for specific performance in respect of the agreement of sale dated 28.12.2018, though the plaint also refers to the earlier agreement dated 20.11.2012, the alleged subsequent payments, and the 2016 transaction in favour of the plaintiff's daughter.

3. The written statement averments are that the suit is not maintainable; that the allegation that the defendant entered into an agreement for sale with the plaintiff's children in 2012 is false; that the defendant neither received any advance under the agreement dated 20.11.2012 nor agreed to sell his share at Rs.10,000/- per sq.ft.; that the said alleged agreement is barred by limitation; that the alleged 2015 and 2016 receipts/instruments are false and fabricated; that the draft sale deed relied on by the plaintiff shows misrepresentation and fabrication; and that, under the 28.12.2018 agreement, only Rs.3,00,000/- was received as advance and the plaintiff was never ready and willing to perform his part of the contract.

4. Additional written statement averments are that originally an unregistered agreement of sale dated 20.11.2012 was entered into with the defendant for his undivided 1/3rd share measuring 2366.6 sq.ft. at Rs.10,000/- per sq.ft.; that the



plaintiff did not complete that transaction and kept postponing it on account of the pending litigation relating to Ms. Dhanalakshmi; that thereafter another agreement dated 28.12.2018 came to be entered into; that even under the said agreement the plaintiff did not pay the balance sale consideration and did not complete the transaction within time; and further that the defendant signed the sale deed dated 13.10.2016 without reading it and only later came to know that the rate mentioned therein had been reduced to Rs.2,500/- per sq.ft., thereby alleging fraud and misuse on the part of the plaintiff.

5. On perusal of the original written statement and the proposed additional written statement, it is clear that the plea now sought to be introduced in the additional written statement is, in material particulars, quite contrary to the original defence already taken by the defendant. In the original written statement, the defendant had specifically denied the very agreement dated 20.11.2012, denied receipt of advance thereunder, and denied agreement to sell at Rs.10,000/- per sq.ft. In the additional written statement, the defendant now positively pleads that there was in fact an agreement dated 20.11.2012 on those very terms and that the plaintiff failed to complete the same. Likewise, while the original written statement treated the 2016 instruments and the plaintiff's version as false and fabricated, the



A.No.5585 of 2025

additional written statement now introduces a new case that the defendant had signed the sale deed dated 13.10.2016 without reading it and later discovered the reduced sale consideration.

6. Therefore, the proposed additional written statement impliedly withdraws the defence already taken by the defendant in the original written statement and introduces new pleas/defences. No doubt, an additional pleading can be permitted where the defendant merely seeks to elaborate or expand the earlier defence already taken. But such leave cannot be granted where the defendant seeks to take a defence which is materially inconsistent with, or destructive of, the earlier written statement. In the present case, though some portions of the proposed additional written statement relating to delay and readiness and willingness may be in the nature of elaboration, the substantial and material pleas now introduced are contrary to the original defence. Hence, this petition falls under the latter category and the same should not be allowed.

7. Further, considering the stage of the case, it is found from the record that P.W.1 was examined and fully cross-examined, allowing this petition at this stage would enable the defendant to introduce a new plea which would materially



A.No.5585 of 2025

prejudice the plaintiff ,nullify the evidence already adduced, and fill up lacunae in the defence. Therefore, the petition deserves to be dismissed.

8. Accordingly, this application is dismissed. However, there shall be no order as to costs.

16-04-2026

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

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A.No.5585 of 2025

DR.A.D.MARIA CLETE, J.

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