

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION),MUVATTUPUZHA

Present:- Sri. Atheek Rahman, Civil Judge (Senior Division)

Monday, the 11th day of November, 2024 / 20th Karthika 1946

I.A.No. 17/2024 in O.S No.6/2019

Petitioner/ Defendant:-

C.P. Pappachan, aged 69 years, S/o Kochappu, Chakiath House,
Thundathumkadavu, Varapuzha P.O, Ernakulam District
– 683 517.

By Adv. Yash Thomas Mannully & Soman P Paul

Respondent/Plaintiff:-

Jose K.J, aged 45 years, S/o P.O. Francis Kannathukuzhi House,
Perumbaloor P.O, Maradi, Ernakulam District.

By Adv. Sayed M Thangal, Febin Raj T.S & Sruthi Das

This petition is filed under Section 151 of the Code of Civil Procedure,1908 to receive the additional document produced on the files of O.S 6/2019 and is coming on for hearing on 11.11.2024 in the presence of the above counsel and the Court on the same day passed the following:-

ORDER

This petition is filed by the petitioner/defendant under Section 151 of the CPC for receiving additional documents. The petition is supported with an affidavit sworn by the petitioner, which, interalia contends that the additional documents are relevant for a just decision of the suit and should be received.

2. The respondent/plaintiff filed objection stating that the petition is not maintainable. The averments contained in the affidavit in support of the petition are false. The documents are irrelevant for the adjudication of the case.

3. Both sides were heard.

4. The contention of the petitioner is that, on the 3rd week of April 2024 he came to know that the respondent here in under a different identity namely Jose Joseph S/o Joseph was convicted in CC 133/2018 as per judgment dated 03.04.2023 by the Additional Chief Judicial Magistrate Court (Economic Offence), Eranakulam. The respondent preferred appeal against the said judgment as Crl. Appeal No.169/2023 and pending. The petitioner obtained certified copy of the relevant documents in the said case. The petitioner filed IA to recall PW1 and to produce his SSLC Book. In the said IA, the respondent filed affidavit stating that the same is irrecoverably lost. Further, it is stated that he appeared for the SSLC examination from the Government High School Muvattupuzha. On enquiry, it is revealed that the name of the person appearing as plaintiff is Jose K.J. S/o Mathai Joseph with address as Kannathukuzhi, Peringazha and the date of birth as 20.09.1961. The print

out of the relevant page of the register of the school is produced. The additional documents are essential for the fair and proper adjudication of this case since the respondent filed the suit with false identity.

5. Refuting the contentions of the petitioner, the respondent contended that the documents are irrelevant for the proper adjudication of the suit. The respondent has filed appeal against the conviction in CC 133/2018 and it is pending before the Additional District and Sessions Court, Eranakulam. In the judgment, his address is recorded as Jose Joseph, age 43/2007, S/o Joseph, Kannothkuzhi House, Perumballoor P.O, Peringazha Kara, Marady Village, Muvattupuzha Taluk, Eranakulam District. The name of the father of respondent is K.J. Joseph. His age stated in the plaint as 45 and in the proof affidavit it is stated as 58. During cross examination, the respondent clarified about the said difference. The respondent completed his primary school education from Niramala LP School, Muvattupuzha. The date of birth mentioned in the school register is unknown to him. There are some clerical mistake happened in the plaint. The suit is filed for realisation of an amount of ₹12,95,000/- covered by three cheques issued by the

petitioner. The petitioner is silent about the cheques issued to the respondent.

6. I have perused the records. After completing pre-trial steps, the trial of the issues are started on 07.03.2023 including in the special list and it is going on. After completing the evidence of the plaintiff, the defendant was examined as DW1. Now the case is posted for further evidence of the defendant. During this stage, the present petition is filed and the additional documents produced.

7. The suit is filed for realisation of money based on three cheques allegedly issued by the petitioner in favour of the respondent. The petitioner contended that he did not issue the cheques to the respondent. The plaintiff approached this court with false identity. My learned predecessor in office settled four issues as follows:- 1) Whether the defendant executed three cheques in favour of the plaintiff as claimed? 2) Whether the plaintiff forged signature of defendant on cheques as alleged? 3) Whether the plaintiff is entitled to realise Rs. 13,53,275/- as from the defendant? 4) What is the order as to interest and costs?

8. The documents produced by the petitioner are the certified copies of the judgment in CC 133/2018 of the Additional Chief Judicial

Magistrate Court, Ernakulam, Vakalath filed by the respondent in the said case, Form 51 filed by the police, statement of account of JK Associates which was marked as Ext.P2 in the above case, certified copy of deed No. 2395/05 which was marked as Ext.P4 in the above case and a copy of entires in a book allegedly taken from Nirmala LP School.

9. The parties to a proceeding are permitted to give evidence of facts in issue and relevant fact as per Section 5 of the Indian Evidence Act. As per Section 52 of the Indian Evidence Act, in civil cases character to prove conduct imputed is irrelevant. The certified copy of the judgment produced in CC 133/2018 and the copies of the exhibits produced are not relevant to decide the suit in the light of the issues settled for trial. Hence, I am of the view that the petition is filed only to stall the proceedings and it is liable to be dismissed.

In the result, the petition is dismissed. No costs.

Dictated to the Confidential Assistant, typed by her directly into computer, corrected by me and pronounced in the Open Court on this the 11th day of November 2024.

Sd/-

ATHEEK RAHMAN

CIVIL JUDGE(SENIOR DIVISION)

APPENDIX :- Nil

Typed by : Ss/-

Sd/-

Compd by : Bmm/-

CIVIL JUDGE(SENIOR DIVISION)

// True Copy //

(By Order)

Sheristadar

Copy of Order

in I.A. 17/2024

in O.S. 6/2019

Dated: 11.11.2024