

IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF OF POLLACHI

PRESENT: THIRU.N.BHARATHIRAJAN, B.A., B.L.,

ADDITIONAL DISTRICT MUNSIF, POLLACHI.

FRIDAY THE 26th DAY OF AUGUST 2022

I.A.No.01/2022 in O.S.No.427/2017

Bhanumathi ... Petitioner/ 1st Defendant

/VS/

Nirmaladevi ... Respondent/plaintiff

This petition coming on 18.08.2022 for final hearing before me the presence of Thiru. K.Gopalakrishnan, Advocate for the Petitioner/ 1st defendant, and of Thiru. S.Sundar, Advocate for the Respondent/plaintiff and on perusal of all material papers on record and hearing submission, this court delivered the following:

ORDER

Petition filed under Order 18 Rule 17 and Section 151 of C.P.C. to recall of Pw1 for further cross examination of petitioner/ 1st defendant side.

2. GIST OF AVERMENTS IN AFFIDAVIT:

The petitioner is the 1st defendant in the main suit. The respondent has filed the above suit against the petitioner and others for declaration and permanent injunction. Now the above case is posted for defendant side evidence. The petitioner has been examined as Pw1 at the time of cross examination some important points were omitted. So the petitioner has to further cross-examine the Pw1 witness of substantiate our case. Hence, the petitioner has come forward with this application to recall of PW1 for further cross – examination on his side, the petitioner will be put much hardship and loss. Hence this petition is filed.

3. GIST OF AVERMENTS IN THE COUNTER OF RESPONDENT/PLAINTIFF:

The respondent has filed the suit for declaration, declaring the respondent/plaintiff is the legally wedded the wife of Late.A.C.Chinnadurai and for permanent injunction. The suit is now pending for defendant side evidence. The

Pw1 has been examined in the month of 5th March 2022, and the cross of Pw1 were done in the month of April 2022 evidence has been closed and posted for defendant side evidence on 06.06.2022. In the month of June 2022 till 12.07.2022 this respondent has gained time for bringing defendant side evidence and on 19.07.2022, filing a petition to re-open and re-call the Pw1 is nothing but dragging the case. The respondent is a Senior Citizen and is living in Chennai. The respondent is coming all along from Chennai for this case and the petitioner also new that fact. The petitioner has not produced any material evidence to put forward a new question. It is therefore pleased to dismiss the petition with cost.

4. POINTS FOR CONSIDERATION:

Whether the petition is to be allowed or not?

5. DISCUSSION AND DECISION:

Heard both sides. Records perused. The petitioner is the 2nd defendant in the Suit. The respondent/plaintiff has filed the suit against the petitioner herein and other defendants for declaration and permanent injunction. The respondent/plaintiff has been examined herself as Pw1 on 05.03.2022 and on 28.03.2022 the 3rd defendant cross-examined the respondent plaintiff. On 22.04.2022, the petitioner has extensively cross-examined the respondent/plaintiff Pw1. Thereafter, the case was adjourned for the evidence of the defendant. At the time of filing the suit, it is learned that the defendant/plaintiff has attained the age of 60 years. The case is pending for 5 years. At this juncture, the petitioner has brought the present application for recall of Pw1 without assigning any valid reason.

Further, this Court is of the view that this petition has been filed to fill up the lacuna in the petitioner's case and to delay the trial.

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

Dictated to the steno-typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court this the 26th day of August 2022.

Additional District Munsif,
Pollachi.

List of witness and documents for Both side:- Nil -

Additional District Munsif,
Pollachi.