

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present: **Tmt.N.Renuga, B.A., B.L.,**

District Munsif, Sulur.

Wednesday, the 12th day of June 2024

I.A. No.5/2024

in

IA.No.2/2023

in

O.S. No.58/2023

Smt.S.Anita

...Petitioner/ 1st Respondent/ 1st Defendant

//Vs//

Sri.R.Sekar

...Respondent/Petitioner/Plaintiff

This petition is coming on 03.06.2024 for final hearing before me in the presence of Thiru.M.Ponnusamy, Advocate for the petitioner and Thiru.S.Marimuthu, Advocate for the Respondent upon hearing both sides enquiry and having stood over for consideration till this day this court delivered the following.

ORDER

This petition filed by the petitioner under order 8 rule 3 and section 151 of CPC to receive the documents in listed after condoning the delay in IA.No.2/2023 the above suit.

1. The brief averments of the affidavit filed by the petitioner as follows:

1.1. The petitioner is the 1st respondent in IA.No.2/2023 and 1st defendant in

the main suit. The IA.No.2/2023 is posted for this petitioner side enquiry. The documents listed in the petition are recent documents. Hence, the petitioner was not able to produce the same before this court at earliest. The petitioner have valid defence in the suit and the documents described in the petition are very necessary for petitioner to prove her defence in IA.No.2/2023 and in the suit. The delay is not wanton or willful. Unless the petitioner to produce the documents listed after condoning the delay in IA.No.2/2023, the petitioner will be put to irreparable loss and injury. Hence, the petition.

2. The brief averments of the counter statement filed by the Respondent as follows:

2.1. The petition is false, frivolous, vexatious and unsustainable in law and on facts. The doc.No.1 is xerox copy which cannot be marked, the doc.No.3 is produced and marked through the Inspector of Police, Kattur Police Station and documents No.4 to 7 are produced and marked through the Tahsildar, Sular Taluk and doc.No.8 to be produced the Sub Registrar, Sular Sub – Registration Office and doc.No.1 mentioned in the Additional document produced by the petitioner is to be produced and marked through postal authority and doc.No.2 to be produced and marked through the Sub – Registrar, Sular Taluk.

2.2. The document are all issued by the Revenue authority and postal authority and Registration Department, these document are produced and marked through concern authority. Unless, the opportunity to prove the validity of the documents will be denied to the respondent by cross examine the witness.

2.3. The petitioner has no locus standi to produce and marked these documents. As such the petition filed by the petitioner seeking permission to produced document is to be dismissed unless the respondent put irreparable loss and hardship. Hence, the petition to be dismissed.

3. Points for consideration:

Whether the petition under order 8 rule 3 and section 151 of CPC to receive the documents is to be allowed?

4. Points :

4.1. Heard the counsels for both the parties. The suit is filed by the plaintiff for the relief of declaration and permanent injunction. The respondent filed IA.No.2/2023 under order 39 rule 1 and 2 in this suit for ad-interim injunction and the petitioner is the respondent in the said IA.No.2/2023. The said IA.No.2/2023 is posted for respondent side enquiry on 14.12.2023 on the same day the respondent in IA.No.2/2023 has filed petition to receive the documents and another petition on 05.02.2024 to receive the documents.

4.2. This being the trial court, the trial has not commenced in the main suit, hence this court have to given opportunity to both sides to elucidated both side case before this court. Further this being the declaration and permanent injunction suit, this court must considered both side oral and documentary evidences. Hence, this court thinks an opportunity to be given to the petitioner/respondent/ 1st defendant for marking of documents in his side in IA.No.2/2023 to establish their case. Further the

delay should be compensated by way of cost.

In the result this petition is allowed . No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 12th day of June 2024.

Sd/N.Renuga

District Munsif,

Sulur.

List of witnesses and document on petitioner side:

Nil

List of witnesses and documents on Respondent side:-

Nil

Sd/N.Renuga

District Munsif,

Sulur.

Draft/ Fair Order

I.A.No.5/2024 in

IA.No.2/2023

O.S.No.58/2023

Dated : 12.06.2024

DMC, Sulur.