

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur.

Friday, the 18th day of October 2024

I.A. No.6/2024

in

I.A.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 03.10.2024 for final hearing before me in the presence of Mr.M.Ponnusamy, Advocate for the petitioner and Mr.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 section 151 of CPC to reopen the IA.No.2/2023 for petitioner/ 1st respondent/ 1st defendant's side marking of the documents and oral arguments in IA.No.2/2023.

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 respondent/ petitioner/ plaintiff has filed IA.No.2/2023 for temporary injunction and the said IA is posted for orders. The Petitioner/ 1st Respondent/ 1st Defendant have several material and very important points in her side oral arguments to prove his defence in IA.No.2/2023 in the above suit. The Petitioner/ 1st Respondent/ 1st Defendant only contesting respondent in IA.No.2/2023. The Petitioner/ 1st Respondent/ 1st Defendant have produced several documents in

her favour in IA.No.2/2023 after condoning delay. The Petitioner/ 1st Respondent/ 1st Defendant side documents are very important documents and the same to be marked as exhibits on her side. In order to elicit and prove Petitioner/ 1st Respondent/ 1st Defendant side defence, it is very necessary to reopen the IA.No.2/2023 for marking of documents and for hearing her side oral arguments. 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 allegation stated in para 3 of the petition is false and misleading. In IA.No.2/2023 both side written argument filed, earlier the petition filed by the petitioner in I.A.No.4/2023, for marking of document was not allowed by this court, the petitioner and respondent are entitled to lead oral argument if any, otherwise the petitioner has no rights to seek the remedy to reopen the case. The I.A.No.4/2023 filed by the petitioner is dismissed. Hence, the petitioner has prepared the appeal as against the order, the petitioner have failed to follow due process of law. As such the petition is liable to be dismissed.

3. Points for consideration:

Whether the petition under section 151 of CPC to reopen the IA.No.2/2023 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 order on 07.08.2024 on the same day the respondent in IA.No.2/2023 has filed this petition to reopen the IA.No.2/2023 for marking of documents and oral argument on his side.

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 and oral arguments in his side in IA.No.2/2023 to establish her case.

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 18th day of October 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.6/2024 in
IA.No.2/2023
O.S.No.58/2023
Dated : 18.10.2024
DMC, Sulur.