

IN THE COURT OF THE DISTRICT MUNSIF, SULUR.Present : **Tmt.N.Renuga**, B.A., B.L.,

District Munsif, Sulur

Friday, the 20th day of October 2023**I.A.No.4/2023****in****O.S.No.128/2018**

1. Ganesagounder

2. G.Marisamy

...Petitioners/ 1st and 2nd Defendants

/ Vs /

1. A.Ramasamy

2. Balasubramaniam

3. Lokeshkumar

4. Goutham

5. Parimalam

6. V.R.Ravichandra

7. C.Annamalai

...Respondent / Plaintiff

...Respondents/ 3rd to 8th Defendants

This petition is coming on 07.10.2023 for final hearing before me in the presence of Thiru.V.Raveendran, Advocate for the Petitioners and of Tmt.D.Chitra, Advocate for the 1st Respondent and Thiru.N.Sivakumar, Advocate for the 2nd to 5th Respondents and Thiru.R.Venkatesan, Advocate for the 6th and 7th Respondents and upon perusing the records and having stood over for consideration till this day this Court delivered the following :

ORDER

Petition filed by under Order 8 rule 9 and section 151 of CPC to file additional written statement and to read the same along with the written statement filed by the petitioners.

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

1.1. The 1st respondent/plaintiff filed suit for declaration and consequential injunction with fully false and untenable allegations against the petitioners and other defendants.

1.2. At the time of filing of the written statement on petitioners sides they

have omitted to disclose the entire facts in respect of the physical features more particularly common well, vari, vaikkal thadam and other landed properties and revenue records for the above properties. Further the petitioners have omitted to disclose the tracing of title to the properties for the plaintiff and defendant. Further omitted to disclose the suit is barred by limitation and exchange of notices in respect of the subject matter of the suit. Which are essential to find out the real litigation between the parties. The above omission is not due to negligence and wanton. The mistake is only because of oversight. Further the plaintiff have filed the plaint with fully false and allegations and also introduced the new case and create new right over the suit cart track and the defendants property. Therefore the petitioners have to deny the above allegations and explain the real facts. Hence it is just and necessary to file the additional pleadings by disclosing the above mentioned vital and important facts in respect of the suit properties. Hence, the petition is to be allowed.

2. The counter statement filed by the 1st Respondent as follows:

2.1. The application is false, frivolous, vexatious and unsustainable, both in law and on facts of the case. The petitioners/ 1st and 2nd defendants has not stated any reasons to file this additional written statement and the reason for the delay in producing the documents accompanied with the additional written statement also not stated. This suit is posted on 03.03.2023 and the 1st respondent /plaintiff examined as PW.1 on 07.03.2023 and this case is posted for cross examination hence without any valid reasons the petitioners/ 1st and 2nd defendants filed this petition. Hence, the petition ought to be dismissed.

3. Point for Consideration:-

Whether the petition under Order 8 rule 9 and section 151 of CPC to file additional written statement is to be allowed?

4. Points:-

4.1. Heard the counsels for both the parties. The 1st respondent/plaintiff filed the suit for declaration and permanent injunction. The petitioners/ 1st and 2nd

defendants filed this petition to receive the additional written statement to prove their case. The main suit is in the stage of PW.1 cross and this being the trial court a fair opportunity to be given to both sides to adduce their side oral and documentary evidences to prove their case. Further as per order 8 rule 9 of CPC the subsequent pleading can be allowed. Hence, it is not destructing or mutually inconsistent with prior pleadings. Hence, this court thinks in the interest of justice this petition is allowed.

In the result, this petition is allowed. No Cost.

Dictated to the Steno-typist and directly typed by her in computer, and corrected and pronounced by me in open court this the 20th day of October 2023.

District Munsif,
Sulur.

List of witnesses and documents on Petitioners side:-

Nil

List of witnesses and documents on Respondents side:-

Nil

District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.4/2023 in
O.S.No.128/2018
Dated :20.10.2023
DMC, Sular.