

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Monday the 2nd day of December 2024

I.A.No.17/2024

in

O.S.No.137/2017

Smt.Janaki @ Kannammal

...Petitioner/ Plaintiff

/VS/

1. Smt.Eswari (Died)
2. Smt.Velathal (Died)
3. Smt.Saraswathy
4. Sri.Ponnusamy @ Deivasigamani (Died)
5. Sri.N.Maheshwaran
6. Sri.Rangasamy (Died)
7. The Assistant Engineer, TANGEDCO, Goldwins
8. The Assistant Executive Engineer, TANGEDCO, Goldwins
9. Sri.Ramasamy (Died)
10. Sri.Rajan
11. Smt.Geethamani
12. Smt.Rajeshwari
13. Smt.Vijayalakshmi
14. Sri.Govindaraj
15. Smt.Easwari (Died)
16. Sri.D.Selvaraj
17. Smt.Maragatham
18. Sri.Loganayagi
19. Smt.Bhuvaneshwari

20. Smt.Kowsalyadevi

...Respondents/ Defendants

This petition is coming on 27.11.2024 for final hearing before me in the presence of Ms.R.Krishnaveni, Advocate for the Petitioner and Mr.A.Kuppuraj, Advocate for the 16th Respondent and Mr.M.Jayanthinathan, Advocate for the 12th to 14th Respondents and the 3rd , 5th , 7th , 8th , 10th , 11th , 17th to 20th Respondents are exparte in main suit and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioner under order 8 rule 9 and section 151 of CPC to file the reply statement in the suit.

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

1.1. The petitioner/plaintiff filed suit for partition and separate possession against the defendants. Some of the respondents/defendants in the suit had filed their written statement alleging that the petitioner/plaintiff not entitled to the suit property. The respondents/defendants have also misrepresented about the relationships of the parties to the suit. The title deeds with respect to the suit property in the name of some of the defendants are void documents. In those documents, all the legal heirs of Ganapathi gounder were not arrayed as parties. Hence they cannot claim any absolute right, title or interest over the suit property in anyway.

1.2. Therefore, to elicit the real facts before this court, it has become very necessary to file reply statement in the suit. Further it is well settled law that without specific pleadings no evidence can be let in. the reply statement will not change the nature and character of suit in anyway. Hence, the petition.

2. The brief averments of Counter statement filed by the 16th Respondent as follows:

2.1. The petition is false, frivolous, vexatious and unsustainable both under law and facts of the case. After laps of 15 years and above from the date of the present suit, the present application is not at all maintainable and the same is not in

accordance with law.

2.2. There was no coparcener relationship between the petitioner and the deceased father, who is the 4th respondent and this respondent at any point of time much less as alleged by the petitioner in his reply statement. The captioned original suit was posted for trial for the past several hearings and thereafter, the petitioner has come forward with the present application in order to protract the proceedings and nothing else.

2.3. The petitioner has filed an present application to receive a reply statement, in which, without praying a prayer for setting aside the sale deed, dated 06.11.1961, the accompanying reply statement may not be received by this court and the purpose of receiving reply statement does not arise at all. The contentions of the reply statement is hit by in view of section 27 of the Limitation Act. The long inaction on the part of the petitioner in taking steps with regard to the above aspect is fatal to the case put forth by the petitioner by way of reply statement and the same is barred by Limitation also.

2.4. The proposed reply statement would change the cause of action or alter the nature of the suit. Arising from the above, the present petition is devoid of any truth or merit whatsoever, and the same is liable to be dismissed in limini with cost.

3. Points for Consideration:-

Whether the petition under order 8 rule 9 and section 151 of CPC to file the reply statement in the suit is to be allowed?

4. Points:-

4.1. Heard the counsels for both the parties, records perused. The petitioner is the plaintiff in the main suit. The suit filed by the petitioner/ plaintiff for the relief of partition and separate possession and permanent injunction. Now the suit is pending in the stage of trial. Now the petitioner/plaintiff filed this petition to receive the reply statement, by contenting that the title deeds with respect to the suit property in the name of some of the defendants are void documents.

4.2. On perusal of records the matter stated in the reply statement and affidavit

are all the facts happened before institution of the suit. The main nature of the suit is for partition and division of the suit properties into 6 equal shares by metes and bounds with reference to good and bad soil and allot one such shares to the plaintiff and directing the 1st to 5th defendants to put the plaintiff in separate possession of her share so allotted and the 7th and 8th defendants from in anyway effecting new service connection to the suit property in favour of anybody else till deciding the title of the parties. Hence, by allowing this reply statement the main case could not be affect. In the interest of justice this court thinks if this petition is allowed the other side will not be prejudiced.

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 2nd day of December 2024.

Sd/N.Renuga
District Munsif,
Sulur.

List of witnesses and documents on petitioner side:-

Nil

List of witnesses and documents on Respondents side:-

Nil

Sd/N.Renuga
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.17/2024 in
O.S.No.137/2017
Dated:02.12.2024
DMC, Sulur.