

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Monday the 3rd day of February 2025

I.A.No.12/2025

in

O.S.No.529/2017

1. R.Palanisamy (died)

2. P.Vijayalakshmi

3. P.Thangaraj

4. P.Vivek

... Petitioners/ Plaintiffs

/VS/

1. N.Rangasamy (Died)

2. N.Balakrishnasamy

3. Periyammal

4. S.Thangavelu

5. Valliathaal

6. Banumathi

7. T.Jayanthi

8. T.Suresh

9. P.Gopalakrishnan

10. B.C.Gnanam

11. T.Mani

12. P.Jaganathan

13. The Tahsildhar

Sulur Taluk.

14. The District Collector,

Coimbatore District

15. The Sub Registrar,

Singanallur

16. Kalamani

17. Sangeetha

...Respondents / Defendants

This petition is coming on 23.01.2025 for final hearing before me in the presence of Mr.S.Jagadheesan, Advocate for the Petitioners and Mr.T.Nambikai Domic, Advocate for 2nd to 12th Respondents and Mr.P.P.Suresh Kumar, Advocate for 16th and 17th Respondents and the 13th to 15th Respondents are ex parte in main suit and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners Under Order 13 Rule 10 R/W section 151 of CPC to sent for the entire case bundle in O.S.No.450/2011 (Disposed on 20.11.2013) from the Record Room of the Hon'ble Subordinate Judge, Coimbatore to this court .

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

1.1. The petitioner is the 4th plaintiff in main suit and he filed suit for declaration and permanent injunction. The 2nd defendant have filed suit in O.S.No.450/2011 against the 1st defendant and 1st plaintiff in respect of the suit property which was tried by Hon'ble II Additional Subordinate Judge, Coimbatore and the suit is dismissed for default on 20.11.2013. The copy of the decree already filed in the present suit and the documents in the earlier suit is very much essential to decide the present suit against the defendants.

1.2. The petitioner non being the party to earlier suit. He could not get the copies from record of Hon'ble Subordinate Court, Coimbatore. Hence, the petitioner needs the entire case bundle of O.S.No.450/2011 to send for the records from the record room Hon'ble Subordinate court, Coimbatore otherwise the petitioner will putting to much hardship.

2. The brief averments of Counter statement filed by the 2nd respondent adopted by 3rd to 12th respondents as follows:

2.1. The petition is false, frivolous not maintainable either in law or on facts of the case. The petitioners' father is the 1st defendant in Old OS.No.450/2011 it was dismissed for default on 20.11.2013 and the copy of the decree is marked in the present suit. The said suit has been contested one. The plaintiff therein Rangasamy now died without mentioning what are the documents is needed the petitioner as filed the present application to drag the proceedings. Hence, this petition is to be dismissed.

3. The brief averments of Counter statement filed by the 16th and 17th Respondents as follows:

3.1. The petition is false, frivolous not maintainable either in law or on facts of the case. The petitioner has not stated on what way the materials in OS.No.450/2011 will helpful for recite the matter in issue. Further the reason stated as the petitioner being a third party to the said proceedings how he get the decree copy from the record room which marked in the present suit. Hence, the reason stated that he is not able to get copies is misleading and unacceptable one.

3.2. The petitioner can very well file third party copy application to get the copies from the record room. This petition is filed to drag the proceedings. Hence, the petition may be dismissed.

3. Point for consideration:-

Whether the petition under Order 13 Rule 10 and section 151 of CPC is to be allowed?

4. Points:-

4.1. Heard both side perused the records. The main suit is filed by the 1st plaintiff R.Palanisamy for declaration and permanent injunction. Subsequently he died, his issues are contesting the present case. The plaintiffs side examined 3 witnesses and now filed the present petition to call for records from the Hon'ble Subordinate court record room in O.S.No.450/2011 which was dismissed for default

on 20.11.2013.

4.2. Further on perusal of records while the 1st plaintiff filed the present suit, he filed the copy of the served plaint and office copy of the written statement and decree copy of the O.S.No.450/2011. But the plaint and written statement copies are being xerox one, this court refused to mark the same. Hence, the decree copies marked as Ex.A.12. This being the fact, the main suit is filed in the year of 2015 and is pending in the stage of plaintiffs side further evidence. If the plaintiff could filed copy application to get the copies of the suit it might get late and delay in the present case proceedings. Hence, in the interest of justice this court thinks it is necessitated to call for records from the Hon'ble Subordinate court record room in O.S.No.450/2011.

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 3rd day of February 2025.

Sd/N.Renuga
District Munsif,
Sulur.

List of witnesses and documents on Petitioners side:-

Nil

List of witnesses and documents on Respondents side:-

Nil

Sd/N.Renuga
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.12/2025 in
O.S.No.529/2017
Dated : 03.02.2025
DMC, Sulur