

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

District Munsif, Sulur

Friday the 18th day of August 2023**I.A.No.4/2023****in****O.S.No.1003/2017**

A.Krishnasamy

... Petitioner/Plaintiff

/ Vs /

1. P.Palanisamy
2. P.Eswaran
3. P.Manisankar
4. Ponnarasi

... Respondents/Defendants

This petition is coming on 04.08.2023 for final hearing before me in the presence of Thiru.V.Raveendran, Advocate for the Petitioner and, Thiru.K.Shanmuganathan, Advocate for the Respondents and upon perusing the records and having stood over for consideration till this day this Court delivered the following :

ORDERS:

This petition filed by the petitioners under order 8 rule 9 and section 151 of CPC to file reply statement and to read the same along with the plaint.

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

1.1. The petitioner/plaintiff filed the suit for permanent injunction against the respondents/defendants. At the time of filing of the suit the petitioner/plaintiff have omitted to disclose the entire facts in respect of the physical features more particularly Nilaviyal Odai, row of coconut trees and etc., in the suit property. The above physical features are clearly enlighten the East West cart track is exist for the width of 8 feet only. Further the petitioner/plaintiff omitted to disclose the tracing of

title to the properties for the plaintiff and defendants, 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.

1.2. Further the defendants have filed a written statement with fully false and allegations and also introduced the new case and created new right over the suit cart track and the plaintiff property. Therefore the petitioner has 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, this petition is to be allowed.

2. The brief averments of Counter statement filed by the 1st Respondent and adopted by the 2nd to 4th Respondents are as follows:

2.1. The petition is false, frivolous, vexatious and unsustainable in law and facts. The petitioner put to strict proof of the affidavit. The averments mentioned in the affidavit are baseless and proof less. The petition filed by the petitioner is nothing but only to drag the proceedings of the case. The reason mentioned by the petitioner in the application is not sufficient and it is an imaginary thought of the petitioner. In order to substantiate the same, the petitioner did not produce a single piece of document before this court, which shows that the petition filed by the petitioner is frivolous in nature. This application lacks bonafide and liable to be dismissed.

3. Points for Consideration:-

Whether the petition under order 8 rule 9 of CPC is to be allowed?

4. Points:-

4.1. Heard the counsels for both the parties, records perused. The main suit is filed for permanent injunction this case is posted in list on 11.07.2023 on the same the petition filed by the plaintiff to receive the reply statement on their side. They seeking permission to receive the reply statement on their side as per order 8 rule 9 if any mutually inconsistent or distractive pleas alone is not permissible to take by way of subsequent pleading. The plaintiff has denied the allegations made in the written statement and chosen to describe facts about existence of cart track. Hence, the

proposed reply statement will not alter the nature of main case and it is not having any plea as mutually inconsistent with the earlier pleadings.

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 August 2023.

District Munsif,
Sulur.

List of witnesses and documents on petitioner 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.1003/2017
Dated:18.08.2023
DMC, Sular