

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

District Munsif, Sulur

Monday the 12th day of June 2023**IA.7/2023****in****O.S.No. 334/2017**

1. Subramaniam

2. Dharmaraj

...Petitioners/Defendants

/VS/

1. Mandiriappan

2. Nachimuthu

3. Thanvelsamy

...Respondents/Plaintiffs

This petition is coming on 21.04.2023 for final hearing before me in the presence of Thiru.K.A.Palanisamy, Advocate for the Petitioners and Mis.Krishnaveni, Advocate for the Respondents and upon perusing the records, and this court made the following:

ORDERS:

Petition filed by the petitioners under Order 16 Rule 1 and section 151 of CPC to issue summons to 1. the Block Development Officer, (Voters Registration Officer) Sulthanpet Panchayat Union, Sulthanpet, 2. The Tahsildar, (Civil Supplies) Sulur Taluk, 3. The Head quarters Tahsildar, Sulur Taluk office, Sulur, 4. The Sub Registrar, Palladam Sub Registrar Office and 5. The Sub Registrar, Sub Registrar office, Dharapuram to produce the mentioned documents and to depose the evidence with respect to them.

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

1.1. The petition mentioned documents are under the custody of the the Block Development Officer, Sulthanpet Panchayat Union, The Tahsildar, (Civil Supplies) Sulur Taluk, The Head Quarters Tahsildar, Sulur Taluk, Sulur, The Sub Registrar, Palladam Sub Registrar Office, and The Sub Registrar, Dharapuram Sub Registrar Office which are more vital documents to prove petitioners case.

1.2. The suit property originally belongs to one Muthu gounder, Arunachala gounder, Chellappa gounder, son of Marappa gounder by virtue of release deed dated 21.07.1903 executed by Tmt.Palaniammal, wife of Chelliah gounder. The said Chellappa gounder sold his shares in favour of Kandasamy gounder, son of Sadaiyappa gounder by virtue of sale deed dated 25.08.1947. The said Muthu gounder and Arunachala gounder were not married and they received valid sale consideration from Kandasamy gounder, son of Sadaiyappa gounder for their respective shares and left out of their share to Kandasamy gounder, son of Sadaiappa gounder.

1.3. On 06.02.1975 Mandiriappa gounder, son of Chellappa gounder purchased property from Karuppusamy gounder, son of Chellappa gounder. On 08.10.1999 the above said Mandiriappa gounder, son of Chellappa gounder executed a sale deed in favour of Ranjitham, wife of Rangasamy. The said Ranjitham is none other than the daughter of Mandiriappa gounder. On 21.10.2010 Velathal, wife of late Kandasamy gounder executed a settlement deed in favour of her granddaughter Selvi, daughter of Subbulakshmi and Nachimuthu gounder.

1.4. After the death of Muthu gounder and Arunachala gounder, the said Kandasamy gounder is in actual, physical and continuous possession and enjoyment of the entire property in S.F.No.59/1 of Senjeriputhur village, Sular. On 03.10.1975 the said Kandasamy gounder died intestate leaving behind his son Palanisamy gounder, who is petitioners' father. On 11.12.1990 the petitioners' father Palanisamy also died. The petitioners are jointly enjoying the property in S.F.No.59/1 of Senjeriputhur village, Sular. While being so, the above said Chellappa gounder's sons Karuppusamy and Mandiriappa gounder have jointly, fraudulently impersonated their father's name as Muthu gounder, son of Karuppusamy gounder and Arunachala gounder, son of Mandirappa gounder and executed a sale deed dated 08.10.2001 in S.F.No.59/1 of Senjeriputhur village to an extent of Ac.1.57 in favour of Mandirappan son of Kumarasamy gounder and Nachimuthu gounder, son of Aruchamy gounder with an evil intention to grab the property of Kandasamy

gounder, son of Sadaiyappa gounder which is marked as Ex.P.6. The above said document is null and void, invalid and unenforceable in eye of law.

1.5. Without perusing the ancestral documents with respect to above said survey No.59/1 of Senjeriputhur village, death certificate and legal heir ship certificate of Muthu gounder and Arunachala gounder and Revenue documents such as "A" register, Patta, in the year 1903 to 2000. With respect of the above said survey No.59/1 of Senjeriputhur village without ascertaining the identity of ownership, without conducting any enquiry of real owner, co-owner, without perusing the encumbrance certificate, the Tahsildar Pallada issued patta in favour of Karuppusamy and Mandiriappa gounder is totally void, invalid and unenforceable. The Karuppusamy and Mandirappa gounder influenced the Tahsildar, Palladam and fraudulently obtained patta with respect to above said survey No.59/1 of Senjeriputhur village and fabricated a sale deed dated 08.10.2001 in favour of respondents/plaintiffs. The respondents/plaintiffs also colluded with the said Karuppusamy and Mandiriappa gounder with an evil intention to grab the suit property making a pathway to respondent/ 3rd plaintiff namely Thangavelsamy who is the relative of ruling party in the year 2001.

1.6. The petition mentioned documents are very much necessary to prove the petitioners case and those documents are vital documents. The petition mentioned documents before this Hon'ble court and give evidence with respect to the same. The respondent/defendants no way prejudiced for marking the above said documents. Hence, this petition.

2). The brief averments of the counter statement filed by the 3rd respondent and adopted by the 1st and 2nd respondent as follows:-

2.1. The petition is false, frivolous and unsustainable in law and on facts. The documents sought by the petitioners are public documents. Hence, the petitioners can very well apply for the said documents before the concerned office after obtaining necessary charges. Since, nothing about the said documents were pleaded in the petitioners' written statement and the additional written statement. The petitioners

ought to have filed necessary applications for seeking permission for examination of other independent witnesses before examining the defendants in the suit.

2.2. As per the provision contemplated under rule 75 (2) of Civil Rules of practice, the petitioners ought to have applied for certified copies of documents sought for by them. The petitioners have not filed any proof for applying for the documents. Smart card and Aadhaar cards of the individuals are privileged one. Hence, the petitioners cannot ask for the relief of production of privileged one of individuals.

2.3. The instant application has been filed belatedly only with malafide intention to protract the trial of the suit. The suit is of the year 2001. Written statement has been filed by the petitioners in the year 2002. The trial commenced only in the year 2017. Hence, the petitioners had sufficient time to obtain certified copies of the documents sought for by them. Further these aspects had already been decided by Land Commissioner Chennai for which no appeal has been preferred till date. Hence, the petition is to be dismissed.

3. Points for Consideration:-

Whether the petition filed by the petitioner under Order 16 Rule 1 and section of CPC is to be allowed?

4. Points:-

4.1. Heard the counsels for both the parties. The suit filed for the relief of partition by one Mandiriappan and Natchimuthu who is initially purchased the suit property under the sale deed dated 08.10.2001 and they are having 2/ 3rd share in the suit property. Subsequently, the 3rd plaintiff has purchased the suit property from the 1st and 2nd plaintiffs and he impleaded as party to the case. The defendants in his written statement has pleaded that the 1st and 2nd plaintiffs Mandiriappan son of Kumarasamy and Natchimuthu son of Arumugasamy are purchased the suit property from one Muthugounder son of Karuppasamy and Arunachala gounder son of Mandiriappa gounder on 08.10.2001. Originally the Muthugounder and Arunachala gounder are not sons of Karuppasamy gounder and Mandiriappa gounder as

mentioned in the document they are the sons of one Chellappa gounder. They fraudulently impersonated their father name and executed the sale deed in favour of 1st and 2nd plaintiffs.

4.2. Further, the persons who sold the suit property to the plaintiffs Muthugounder, Arunachala gounder are not the real owners of the suit property. Hence, the defendant as petitioners filed this petition ordered to produce voter list in the year 2012 the Block Development Officer, Sultanpet Panchayath Union. For the name list of Karuppasamy son of Chellappa gounder, Thirumathaal wife of Karuppasamy, Mandiriappa gounder son of Chellappa gounder, Ramathaal wife of Mandiriappa gounder, Velathaal wife of Kandasamy. Further the petitioners requested to produce the Tahsildar, Civil Supplies, Sultanpet the Smart card and Aadhaar card of the above said persons. In addition to that, the petitioners has requested the Head Quarters Tahsildar to produce Adangal from the year 1903 to 2000 in respect of S.F.No.59/1 Senjeriputhur village, Sular Taluk.

4.3. Further more the petitioners requested the Sub Registrar Palladam to produce the partition deed dated 22.10.1973 in document No.1590/1979 and the Sub Registrar, Dharapuram to produce the sale deed dated 08.10.1999 in document No.3904/1999, settlement deed dated 21.10.2010 in doc.No.11669/2010, sale deed dated 06.02.1975 in doc.No.206/1975. The petitioners has not stated any reason that whether he has applied to get copy of those documents before the concerned authority and there is any reasons for delay in complying those copy application. This court thinks the documents mentioned in serial No.3, 4 and 5 can be easily obtained by the petitioners himself by way of applying copy application before concerned authority and Sub Registrars. Here without approaching the said proper authorities the petitioners preferred this application to get directions from this court to concerned authority to produce the said documents is unreasonable one this can't be entertainable.

4.4. The defense taken by the petitioner in his written statement that the document has been impersonated by the Karuppasamy and Mandiriappa gounder in

the year of 2001. Hence, here the petitioners/defendants has to prove the impersonation act done by the Karuppasamy and Mandiriappan before Sub Registrar Office with proper and substantial evidence. In this situation the voter list of Karuppasamy son of Chellappa gounder, Thirumathaal wife of Karuppasamy, Mandiriappa gounder son Chellappa gounder, Ramathaal wife of Mandiriappa gounder, Velathaal wife of Kandasamy and the smart card and Aadhaar card are the documents not necessary to prove establish case of the defendants in this suit. Further it is all in the year of 2016 and 2012 documents and the necessity for production of those documents not clearly mentioned by the petitioner side.

4.5. The petitioner mentioned documents can easily able to get by the petitioner by way of copy application before concerned authorities without utilizing those opportunity the petition can't seek the concerned authority to produce those document before this court.

In the result, this petition is dismissed. 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 12th day of June 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.7/2023 in
O.S.No.334/2017
Dated : 12.06.2023
DMC, Sulur.