

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V. Devapriya, B.Sc.,M.L.,
District Munsif, Madurantakam
Friday, the 6th day of December, 2024

I.A.No.5/2024
in
O.S. No.42/2023

Anbarasu

...Petitioner/Plaintiff

-vs-

Dhanasekar

...Respondent/Defendant

This petition coming up before me on 25.11.2024 for final hearing in the presence of, Thiru.S.Balamurugan, counsel for the Petitioner/Plaintiff and Thiru.G.Satish. counsel for the Respondent/Defendant and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/Plaintiff under Order VI Rule 17 of Code of Civil Procedure, to amend the plaint.

2.The averments stated in the petition, in brief :

The Petitioner/Plaintiff had filed the above suit for permanent injunction against the Respondent/Defendant. At the time of filing the above suit, the Petitioner/Plaintiff do not know the original owner of the suit property since no person came to the suit property for more than thirty years. Therefore, Petitioner/Plaintiff encroached the suit

property and constructed the thatched house and got the electricity connection and residing along with the family in the suit property till today for more than 17 years without interruption of anybody including the Defendant or the real owner of the suit property. The Petitioner/Plaintiff was unable to mention the real owner of the suit property in the plaint. The Defendant had filed written statement in the above suit and stated that the suit property belongs to one Sanjay and from him, the Respondent/Defendant got the property, in the year 2007 and rectified the same in the year 2023. Therefore it is necessary to amend the plaint. Hence this petition.

3.The averments stated in the counter filed by the Respondent/Defendant, in brief:

This petition is not maintainable in law and on facts. The averments in the affidavit are false. The petition had filed the above case by stating false information. The Respondent/Defendant is living in the same town for many years. The Petitioner/Plaintiff is acting in bad intention to prevent the Respondent/ Defendant. This petition was filed unnecessarily to waste the time of this court. The Petitioner/ Plaintiff had filed this petition seeking to respond to the objections raised by the Respondent/Defendant in the written statement. Hence this petition is liable to be dismissed with costs.

4. The point for determination is whether this petition is to be allowed or not?
5. No Exhibits marked and no witnesses were examined on both sides.
6. Heard both sides and perused the records.

7. The Petitioner/Plaintiff had filed this petition to amend the plaint. The Respondent/Defendant resisted the petition stating that the amendment sought for, is a respond to the objections raised by the Respondent/Defendant, in the written statement.

8. The Petitioner/Plaintiff had stated that through the written statement he came to know that one Sanjay is the owner of the suit property and therefore the Petitioner/Plaintiff had to amend the plaint to the effect and that the same is necessary. Perusal of the proposed amendment reveals that the same is with regard to the stand taken by the Respondent/Defendant in respect of the suit property and in the nature of taking defence from the statement of the Respondent/Defendant. Thus the amendment sought for, by the Petitioner/Plaintiff is in the manner of reply to the written statement. Hence, for the foregoing reasons this court is not inclined to allow this petition.

9. In the result, this petition is dismissed. No costs.

Partly dictated to the Stenographer, typed by her and partly typed by me in my laptop, corrected and pronounced by me in open court on this the 6th day of December, 2024.

District Munsif
Madurantakam.

Petitioner side witnesses and documents:

Nil

Respondents side witnesses and documents:

Nil

District Munsif
Madurantakam.