

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V.Devapriya, B.Sc., M.L.,
District Munsif, Madurantakam

Saturday, the 6th day of April, 2024

I.A.No.10/2024

in

O.S.No.232/2012

Mayavan

...Petitioner/Plaintiff

-vs-

1. Raman

2. Vijaya

3. Palani

4. Palaniammal

5. Lakshmi

6. Raja

7. Chinnakka (died)

8. Parameswaran (died)

9. Dhanalakshmi

...Respondents/Defendants

This petition coming up before me on 21.03.2024 for final hearing in the presence of, Thiru. S.Subramanian, counsel for Petitioner/Plaintiff and Respondents 1 to 6/Defendants 1 to 6 having been set exparte in the main suit and Respondents 7 and 8/Defendants 7 and 8 having been died and Thiruvalargal. P.A.Amrose and M.Paramasivam, counsels for 9th Respondent /9th 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 section 151 of Code of Civil Procedure, to reopen the Petitioner/Plaintiff side evidence for examination of further evidence.

2. The averments stated in the petition in brief

The Petitioner/Plaintiff had filed the above suit for declaration and for permanent injunction and the above suit was posted for arguments. Pending suit, the 9th Respondent/9th Defendant obtained alleged legal heir certificate for Ramadoss, without any enquiry and marked the same. The Thasildhar, Madurantakam has no authority to decide the legal heir dispute. The Petitioner/Plaintiff has to adduce further evidence to dispute the legal heir certificate obtained by the 9th Respondent/9th Defendant. Hence the petition.

3. The averments stated in the counter filed by the 9th Respondent/9th

Defendant in brief:

This petition is not maintainable in law and on facts. Based on the legal heir certificate, the DW1 was fully cross examined by the Petitioner/Plaintiff and

the cross examination was closed on 19.01.2024. In meantime, the Petitioner/Plaintiff did not take any steps for examination of further witness, based on the legal heir certificate of Ramadoss. The above case was posted for arguments and the above suit is pending for the past 12 years. The 9th Respondent/9th Defendant had produced all the documents and after proper enquiry, the Thasildhar, Madurantakam had issued the legal heir certificate. The Thasildhar has got every right to issue Class-1 heir certificate. This petition is filed to drag on the proceedings. There is no merit in the present petition. Hence this petition is liable to be dismissed with cost.

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 reopen his side evidence to adduce further evidence on his side to the disputed document. The 9th Respondent/9th Defendant had resisted the petition stating that the Petitioner/Plaintiff had already cross examined DW1 in respect of the disputed document.

8. Perusal of records show that the Petitioner/Plaintiff and the Respondents 7 to 9/Defendants 7 to 9 are claiming to be the legal heirs of deceased Ramadoss.

Therefore the issue between the parties is with regard to the legal heirship in respect of said Ramadoss. While so, the 9th Respondent/9th Defendant had filed legal heir certificate of Ramadoss, son of Duraisamy issued in favour of Respondents 7 to 9/Defendants 7 to 9 and the same has been marked as Exhibit B-16. Perusal of Exhibit B-16 show that the sme has been issued on 24.04.2023, during the pendency of the above suit. The Petitioner/Plaintiff had filed the above suit for declaration of title over the suit properties claiming to be the legal heir of said Ramadoss. Therefore the burden is on the Petittoner/Plaintiff to prove that he is the legal heir to said Ramadoss, in order to claim title over the suit properties.

9. The records show that the 9th Respondent/9th Defendant was examined as DW1 and she was cross examined in full and when the case was posted for further DWs, the 9th Respondent/9th Defendant had filed a petition to receive the said Exhibit B-16 and the same was allowed and she was cross examined again. Therefore in order to give fair opportunity to both parties in trial, this court is inclined to allow this petition on costs.

10. In the result, this petition is allowed on cost of Rs.1000/- to be paid by the Petitioner/Plaintiff to the 9th Respondent/9th Defendant on or before 15.04.2024, failing which, this petition will be automatically dismissed. Call on 15.04.2024.

Dictated to the Stenographer, transcribed and typed by him and corrected and

pronounced by me in open court on this the 6th day of April, 2024

Sd/-V. Devapriya
06.04.2024
District Munsif
Madurantakam

Petitioner side witnesses and documents:

Nil

Respondents side witnesses and documents:

Nil

Sd/-V. Devapriya
06.04.2024
District Munsif
Madurantakam