

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

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

Friday, the 16th day of September, 2022

I.A.No. 6/2022

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 02.09.2022 for final hearing in the presence of, Thiru.S.Subramanian, counsel for the Petitioner/Plaintiff and Respondents 1 to 6/ Defendants 1 to 6 having been called absent and set exparte in the main suit and Respondents 7 and 8/ Defendants 7 and 8 having been died, and Thiru.V.Agoram counsel for 9th Respondent/ 9th Defendant, and after hearing the arguments of 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 scrap the proof affidavit of PW-2.

2.The averments stated in the petition in brief:

The above suit is filed for declaration and for permanent injunction. The Petitioner/ Plaintiff was examined as PW-1, and he had examined one Chinnaponnu as PW-2. But the said Chinnaponnu is not co-operating with the Petitioner /Plaintiff as she was influenced by the Respondents/Defendants. Hence this petition.

3. The averments stated in the Counter filed by the 9th Respondent/ 9th Defendant and in brief:

This petition is not maintainable under law and on facts. The averments of the affidavit of PW-2 are all incorrect and vexatious. This petition is filed only to drag on the proceedings and without any proper reasons. Hence this petition is 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 scrap the proof affidavit of PW-2.

The 9th Respondent/9th Defendant had resisted the petition stating that, it is filed only to drag on the proceedings. The PW-2 was examined only in chief and she was not cross examined yet and therefore no prejudice will be caused to the 9th Respondent/ 9th

Defendant. Since no useful purpose will be served in keeping the case pending at the stage of cross examination of PW2, who is not interested in deposing, in the interest of justice, this court is inclined to allowed this petition.

8. In the result, this petition is allowed. No costs.

Dictated to the Stenographer and transcribed by her and corrected and pronounced by me in open court on this the 16th day of September, 2022

District Munsif
Madurantakam

Petitioner side witnesses and documents:

Nil

Respondent side witnesses and documents:

Nil

District Munsif
Madurantakam