

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V.Devapriya, B.Sc., M.L.,

District Munsif, Madurantakam

Friday, the 5th day of July, 2024

I.A.No.6/2024

in

O.S.No.63/2023

1. Baby Shalini

2. Vignesh

...Petitioners/Defendants

-vs-

1. Aruputham

2. Mariammal @ Sheela

...Respondents/Plaintiffs

This petition coming up before me on 25.06.2024 for final hearing in the presence of, Thiruvallargal. S.Senthil Kumaran and Saraswathi Yadav, counsels for Petitioners/Defendants and Thiruvallargal. P.Praveenkumar and R.Manjupriya, counsels for the Respondents/Plaintiffs 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 Petitioners/Defendants under Order IX Rule 7 of Code of Civil Procedure, to set aside the order dated 28.08.2023 setting the Petitioners/Defendants exparte in above suit.

2.The averments stated in the petition in brief :

The Respondents/Plaintiffs had filed the above suit for permanent injunction

and to declare the settlement deed dated 01.10.2020, as null and void. The S.No. 839A/2B to an extent of 1668 Sq.feet is the absolute property of the 2nd Petitioner/2nd Defendant, who is the husband of 1st Petitioner/1st Defendant. The 2nd Petitioner/2nd Defendant had executed settlement deed dated 01.10.2000 in favour of the 1st Petitioner/ 1st Defendant. The R-2-espondents/Plaintiffs have no right over the property settled in favour of 1st Petitioner/1st Defendant and therefore they have no right to seek the relief of permanent injunction for the entire extent. Due to illness, the Petitioners/Defendants were not able to appear before this court on 28.08.2023 and therefore they were set exparte on 28.08.2023. Hence the petition.

3. The averments stated in the counter filed by the 2nd Respondent/2nd Plaintiff and adopted by 1st Respondent/1st Plaintiff, in brief :

This petition is not maintainable in law and on facts. The averments in the affidavit are false. The Petitioners/Defendants had not explained each and every day delay. The Petitioners/Defendants are not absolute owner of the suit survey number. This petition is filed to drag on the proceedings. There is no merits in this petition. 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 were marked and no witnesses were examined on both sides.
6. Heard both sides and perused the records.

7. The Petitioners/Defendants had filed this petition to set aside the order dated 28.08.2023 setting them exparte in the above suit, on the ground of illness. The Respondents/Plaintiffs had not made any specific objections, that causes prejudice to them. The Petitioners/Defendants had filed their written statement along with this petition. The reason stated by the Petitioners/Defendants is sufficient. Hence, in the interest of justice and for complete adjudication and to avoid multiplicity of proceedings, this court is inclined to allow this petition on costs

8. In the result, this petition is allowed on the cost of Rs.500/- to be paid by the Petitioners/Defendants to the Respondents/Plaintiffs, on or before 12.07.2024, failing which, this petition will be automatically dismissed. Call on 12.07.2024.

Dictated to the Stenographer, transcribed and typed by him and corrected and pronounced by me in open court on this the 5th day of July, 2024

District Munsif
Madurantakam

Petitioners side witnesses and documents:

Nil

Respondents side witnesses and documents:

Nil

District Munsif
Madurantakam