

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

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

Wednesday, the 23rd day of November, 2022

I.A.No. 6/2022
in
O.S. No. 350/2015

1. R. Venkataperumal (died)
2. R. Kannadasan

...Petitioner/ 2nd Plaintiff

-vs-

1. R. Madhavan (died)
2. D. Mohanbabu
3. The Sub-Registrar, Madurantakam having office at Madurantakam town and Taluk, Kancheepuram District
4. The Thasildhar, Madurantakam having office at Madurantakam town and Taluk, Kancheepuram District
5. The District Collector, Kancheepuram District, having office at Kancheepuram District

...Respondents/Defendants

This petition coming up before me on 10.11.2022 for final hearing in the presence of, Thiru.S.Subramanian, counsel for the Petitioner/ 2nd Plaintiff and 1st Respondent/ 1st Defendant having been died and Thiru.R.S.Renganathan counsel for the 2nd Respondent/ 2nd Defendant and Respondents 3 to 5/ Defendants 3 to 5 having been called absent and set exparte in the main suit 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/ 2nd 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 above suit was filed by the 1st Plaintiff for declaration and for possession. There is a well and Electricity service connection No.226 in the item No.7 suit property. But the same was omitted to be mentioned in the plaint, since the 1st Plaintiff was aged old. Now only the Petitioner/ 2nd Plaintiff came to know of the above fact. Hence this petition.

3. The averments stated in the Counter filed by the 2nd Respondent/ 2nd Defendant and in brief:

The petition is not maintainable in law and on facts. As per Exhibit A-3, the well and electricity service connection is situated only in Nanjai S.No.125/6, which is the item No.6 in the suit 'B' schedule property. The proposed amendment is to add well and Electricity service connection in the item No.7 in the suit 'B' schedule property. Therefore the proposed amendment is not correct and therefore the 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/ 2nd Plaintiff had filed this petition to add the description of well and Electricity service connection in item No.7 of the suit property. The Respondents/ Defendants has resisted the petition stating that, the above said well and Electricity service connection is situated only in item No.6 suit 'B' schedule property, as per Exhibit A-3. The case of the Petitioner/ 2nd Plaintiff as per the plaint is that the suit property are the properties of 1st Plaintiff's wife and his elder sister and the 2nd Respondent/ 2nd Defendant had executed a Sale deed in favour of 1st Respondent/ 1st Defendant fraudulently claiming to be the husband of the 1st Plaintiff's wife and therefore the above suit has been filed for declaration of title and for title of possession and to declare the Exhibit A-3, and also the legal heir certificate issued to 2nd Respondent/ 2nd Defendant as null and void.

8. The Petitioner/ 2nd Plaintiff had not filed this petition based on the Exhibit A-3 and moreover the Petitioner/ 2nd Plaintiff had challenged the Exhibit A-3 to be null and void. Therefore the contention of the Respondents/Defendants that as per Exhibit A-3 the said well and Electricity service connection is situated in item No.6 suit 'B' schedule property and therefore the proposed amendment is incorrect, cannot be accepted.

9. It is not in dispute that there is a well along with electricity service connection No.226. The only dispute is that, it is situated in item No.7 suit property. Whether the

above said well and electricity service connection is situated in item No.6 suit 'B' schedule property or in item No.7 suit 'B' schedule property can be decided only after trial. Since the presence of well and electricity service connection in the suit properties is not disputed, the same has to be added in the plaint for complete adjudication. Hence for the foregoing reasons this court is inclined to allow this petition on costs.

10. In the result, this petition is allowed on payment of cost of Rs.500/- to be paid by the Petitioner/ 2nd Plaintiff to the 2nd Respondent/ 2nd Defendant on or before 29.11.2022, failing which, this petition will be dismissed automatically. Call on 29.11.2022.

Dictated to the Stenographer and transcribed by her and corrected and pronounced by me in open court on this the 23rd day of November, 2022

District Munsif
Madurantakam

Petitioner side witnesses and documents:

Nil

Respondent side witnesses and documents:

Nil

District Munsif
Madurantakam