

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V.Devapriya, B.Sc., M.L.,
District Munsif, Madurantakam
Friday, the 7th day of February, 2025

I.A.No.8/2024 and I.A.No.9/2024

in

O.S.No.194/2015

1. Radha
2. Ajeethakumar
3. Vasanthakumar

...Petitioners/Defendants
1, 3 and 4

-Vs-

1. Raja
2. Muniyammal
3. Logammal
4. Veeramuthu
- 5, Aboorvammal
6. Kuppammal
7. Krishnan

...Respondents/Plaintiffs
...Respondent/2nd Defendant

This petition coming up before me on 31.01.2025 for final hearing in the presence of, Thiru.S.Senthilkumaran, counsel for Petitioners/Defendants 1, 3 and 4 and Thiru.V.Agoram, counsel for Respondents 1 to 6/Plaintiffs and 7th Respondent/2nd Defendant having been already set exparte in main suit 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,

COMMON ORDER

I.A.No.8/2024

This petition has been filed by the Petitioners/Defendants 1, 3 and 4 under section 151 of Code of Civil Procedure, to reopen the evidence of Defendant side.

I.A.No.9/2024

This petition has been filed by the Petitioners/Defendants 1, 3 and 4 under Order XVIII Rule 17 of Code of Civil Procedure, to recall the DW3.

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

The above case is posted for Defendants side further evidence. The 3rd Petitioner/4th Defendant was examined as DW3 and had filed petition to receive documents and the same was allowed and Exhibit B6 to B18 were marked and the case was posted for cross examination of DW3, on 19.09.2024. On 19.09.2024, the DW3 was not able to appear before this court and hence cross examination of DW3 was closed. Further, the 3rd Petitioner/4th Defendant's father was affected by Cancer and he gave medical assistance, and hence he could not appear before this court. Hence these petitions.

3. The averments stated in the common counter filed by the 1st Respondent/ 1st Plaintiff and and adopted by other Respondents 2 to 6/Plaintiffs 2 to 6, in brief:

These petitions are not maintainable in law and on facts. The averments in the affidavit are false. The 3rd Petitioner/4th Defendant had already filed petition to recall and reopen petitions and the same was allowed on 06.04.2024 and the 3rd Petitioner/4th Defendant present on 01.08.2024 and the documents were marked as Exhibit B6 to B18 and the case was posted for cross examination on 08.08.2024. This court granted several opportunities. But the 3rd Petitioner/4th Defendant had not appeared before this court. These petitions are filed only to drag on the proceedings. The petitions are not

at all maintainable in law. There is no merits in this petition. Hence these petitions are liable to be dismissed with costs.

4. The point for determination is whether these petitions are 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 Petitioners/Defendants 1, 3 and 4 had filed these petitions to reopen the evidence of Defendant side and to recall DW3 in the above suit, for cross examination. The contesting Respondents resisted the petition stating that these petitions are filed to drag on the proceedings. The contesting Respondents/Plaintiffs had not stated any facts with regard to the prejudice being caused to them. Therefore, in order to give fair opportunity to the Petitioners/Defendants 1, 3 and 4 in trial and to avoid multiplicity of proceedings, this court is inclined to allow these petitions on costs.

8. In the result, these petitions are allowed on costs of Rs.500/- to be paid by the Petitioners/Defendants 1, 3 and 4 to the Respondents 1 to 6/Plaintiffs on or before 14.02.2025, failing which, these petitions will be automatically dismissed. Call on 14.02.2025.

Dictated to the Stenographer, typed by her and corrected and pronounced by me in open court on this the 7th day of February, 2025.

District Munsif
Madurantakam

Petitioner side witnesses and documents:

Nil

Respondents side witnesses and documents:

Nil

District Munsif
Madurantakam