

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

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

Thursday, the 9th day of February, 2023

I.A.No. 7/2023

in

O.S. No. 583/2014

1. Govindasamy gounder (died)

2. Pazhani

...Petitioners/Plaintiffs

-vs-

1. Sadhasivam

2. Aathilakshmi

3. Kasiyammal

4. Muniyammal

5. Vendamirtham

6. Pachiyappan

...Respondents/ Defendants

This petition coming up before me on 08.02.2023 for final hearing in the presence of, Thiruvargal.K.Ayyasamy, and V.Mohanraj counsel for the Petitioners/Plaintiffs and Thiru.V.Agoram, counsel for Respondents 1 and 2/ Defendants 1 and 2 and Respondents 3 and 4/ Defendants 3 and 4 having been set exparte in the main suit, and Tmt.Sharmila, counsel for Respondents 5 and 6/Defendants 5 and 6 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 Petitioners/ Plaintiffs under Section 151 of Code of Civil Procedure, to scrap the evidence of PW-4, Narayanan.

2.The averments stated in the petition in brief:

In the above suit one Narayanan was examined as PW-4 and the case is posted for cross examination of PW-4. The said PW-4 Narayanan was threatened by Respondents/Defendants and therefore the Petitioners/Plaintiffs could not produce PW-4 for cross examination. Hence this petition.

3. The averments stated in the Counter filed by the Respondents 1 and 2/ Defendants 1 and 2 and adopted by Respondents 5 and 6/Defendants 5 and 6 in brief:

This petition is not maintainable under law and on facts. The said PW-4 Narayanan is residing at Siruthamur Village, Madurantakam Taluk and the Respondents /Defendants is residing at Chennai. Hence the allegations that the Respondents/ Defendants had threatened the PW-4 in not correct. This vexatious petition is filed to drag on the proceedings and 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 marked and no witnesses were examined on both sides

6. Heard both sides and perused the records.

7. The Petitioners/Plaintiffs had filed this petition to scrap the chief examination of PW-4 Narayanan, on the ground that he was threatened by the Respondents/Defendants.

The Respondents/Defendants resisted the petition stating that, the allegation is false. Perusal of records reveals that, the PW-4, Narayanan has examined in chief and he was not yet cross examined. The Respondents/Defendants had not stated any specific fact with regard to the prejudices that will be caused to them in scraping the chief examination of PW-4. Hence in the interest of justice, this court is inclined to allow this petition on costs.

8. In the result, this petition is allowed on costs of Rs.500/- to be paid by the Petitioners/ Plaintiffs to the Respondents 1,2,5 and 6/ Defendants 1,2,5 and 6 on or before 16.02.2023, failing which, this petition will be dismissed automatically. Call on 16.02.2023.

Dictated to the Stenographer and transcribed by her and corrected and pronounced by me in open court on this the 9th day of February, 2023

District Munsif
Madurantakam

Petitioner side witnesses and documents:

Nil

Respondent side witnesses and documents:

Nil

District Munsif
Madurantakam