

IN THE COURT OF THE ADDITIONAL SUB JUDGE, PALANI.

**Present : Thiru. J. Jeya Suthahar, M. Sc., L.L.M.,
Additional Sub Judge, Palani.**

Dated this the 02nd day of February 2023, Thursday

I.A.No.1/2022

in

A.S. No.10/2020

1. M. Chinnasamy
2. R. Murugathal
3. C. Senthilkumar
4. P. Kuppusamy
5. P. Velusamy

--- Petitioners/Appellants

/Vs/

1. P. Krishnan @ Ramakrishnan
2. P. Sakunthala
3. P. Ramanathan

--- Respondents/Respondents

This petition came before me for final hearing on 19.01.2023 in the presence of Mr. S. Etteeswaran and Mr. B. Madhavapushpavanam, Learned Counsels for the petitioners/appellants, and Mr. T. Elango and Mr. S. Saravanakumar, Learned Counsels for the 1st respondent/1st respondent and the respondents 2 and 3/respondents 2 and 3 being remained exparte and upon hearing the arguments on both side and upon perusal of records and having stood over for consideration till this date, this court doth delivers the following:

ORDER

This petition is filed by the petitioners/appellants under Rule 75 of the Civil Rules of Practice to send for the revenue records described in the petition and to permit the petitioners to mark them as additional evidence on the side of the petitioners/appellants.

2. The averments in the affidavit filed by the petitioners in support of the petition in brief as follows:

The 1st petitioner is the 1st appellant in the appeal. He has filed the affidavit on behalf of the other petitioners also. The petitioners have filed petition to

receive additional documents in the appeal along with this petition. The file relating to patta transfer in respect of the suit properties under the updating registry scheme from the Taluk Office, Palani, described in the petition have to be sent for from the office and they have to be marked as additional evidence in the appeal. Since the petitioner is illiterate he thought that the Adangal Accounts filed by him are enough. Now after enquiry in the Revenue Department they told that the files related to the updating registry scheme will be sent only to the court on summon and the copies will not be given to the parties. Hence the documents have to be sent for and they have to be marked as additional evidence in the appeal on the side of the petitioners. Otherwise the petitioners will be put to irreparable loss and great hardship. But the respondents will not be affected. Hence this petition is filed.

3. The averments in the counter statement of the 1st respondent in brief as follows:

The petition is not maintainable in law and on facts. The petitioners are not entitled to the relief claimed in the petition. The averments stated in the petitioners affidavit are false. It is false to state that since the petitioner is illiterate he thought that the Adangal Accounts filed by him are enough. The petitioners have not filed any document to show that they applied for the certified copies of the documents from the concerned department and they told that it will not be given to the individual person. Hence the petition is liable to be dismissed.

4. Both side no oral and documentary evidence is adduced in this petition.

5. The point for decision in this petition is whether this petition deserves to be allowed or not?

6. According to the petitioners the documents described in the petition have to be sent for from the Taluk Office, Palani for marking them as additional evidence on the side of the petitioners/appellants in the appeal. According to the 1st respondent the reason stated by the petitioners in the affidavit are false and that they have not filed any documents to prove the same and that hence the petition is liable to be dismissed.

7. Admittedly the petitioners have filed the above appeal against the judgment and decree of the Learned District Munsif, Palani passed in O.S.No.17/2014, dated 13.01.2020 in dismissing the suit filed by them. The above appeal was taken on file on 24.02.2020. Now when the above case is pending for arguments on 15.12.2022 the petitioners have filed the above petition to send for the documents described in the petition from the Taluk Office, Palani. The petitioners have also filed another application under Order 41 Rule 27 CPC to mark the documents which are sought to be sent for in the above application as additional evidence in the appeal on their side.

8. A bare reading of the above petition filed by the petitioners shows that they have asked for the relief to send for the entire file related to the patta transfer under the updating registry scheme regarding S.No.19/4B, 19/4C and 19/4D of Kodhaimangalam Village. In the affidavit of the petitioners it is merely stated that the above documents have to be sent for from the concerned office and they have to be marked as additional evidence on the side of the petitioners/appellants. The petitioners have not stated any reason in the affidavit as to why they have not taken such steps before the trial court. Further they have also not stated any reason in their affidavit as to what is the necessity and relevancy of the documents in the appeal and how they are relevant for the proper adjudication of the dispute involved in the above case. Further the petitioners affidavit is silent regarding whether they have taken any such steps before the trial court and whether it was denied by the trial court. Further they have also not stated whether the documents were not within their knowledge or they could not be produced by them before the trial court inspite of due diligence. The petitioners have not stated anything in their affidavit warranting to invoke the provisions of Rule 75 of CRP.

10. Hence considering the above facts and circumstances of this case this court is of the view that the above petition is devoid of merits and hence the same deserves to be dismissed.

11. In the result this petition is dismissed. No costs.

Dictated to the the steno-typist directly and computerized and printed by him and pronounced by me in the open court on this the 02nd day of February 2023.

**Additional Sub Judge,
Palani.**

Petitioners side witnesses and documents: NIL

Respondents side witnesses and documents: NIL

**Additional Sub Judge,
Palani.**

Additional Sub Court, Palani
I.A.No.1/2022
in
A.S.No.10/2020

Order
Date : 02.02.2023