

IN THE COURT OF THE PRINCIPAL SUB JUDGE, PALANI.

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

Dated this the 20th day of February 2024, Tuesday

I.A.No.2/2024

in

O.S. No.435/2015

1. N.Sivasubramanian
2. S. Rangasamy
3. P.Thulasimani Petitioners/Defendants 3 to 5

/Vs/

1. P.Devarajan
2. Saritha Respondents/Plaintiffs

This petition came before me for final hearing on 30.01.2024 in the presence of Thiru. P.Mahendran and Thiru.B.Manoharan, Learned Counsels for the petitioners/defendants 3 to 5 and Mr.A.Abdul Hameed, Learned Counsel for the Respondents/Plaintiffs 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/defendants 3 to 5 under Order VIII Rule 1-A (3) and Sec.151 of CPC to receive the documents filed along with this petition as additional evidence on their side.

2. The averments in the petitioner's affidavit filed in support of the petition in brief as follows:

The petitioners are the defendants 3 to 5 in the suit. The above suit was filed by the respondents by partition and other reliefs. Now the above suit is pending to adduce evidence on the side of the petitioners. The documents listed and filed

along with the petition are obtained by the petitioners from the sub-registrar office now only. So the above documents were not able to be filed along with the written statement. The above documents are important to prove the case of the petitioners. Hence the above documents have to be received as additional evidence on the side of the petitioners. Otherwise the petitioners will be put to great hardship and loss. Hence this petition is filed.

3. The 1st defendant who is not a party to this petition has filed counter statement. It was adopted by the respondents herein. The averments in the said counter statement in brief as follows:

All the averments in the petitioner's affidavit are not true. The petitioners have filed this petition by dragging on the suit proceedings. The document listed as 11th document is not related to the suit. The alleged Thangavel is not a party to the suit. The petitioners have not stated any reason to admit the 11th document and it is filed only to defraud the share of the 1st defendant. So the above document cannot be accepted. Hence the petition is liable to be dismissed in respect of the 11th document.

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. The petitioners herein who are the defendants 3 to 5 in the above suit have filed this petition under Order VIII Rule 1-A (3) and Sec.151 of CPC to receive

the documents filed along with this petition as additional evidence on their side. The respondents have no objection to receive the documents except the document listed as document No.11. As far as the said document listed as Doct.No11 is concerned, it is a letter said to have been written by the 1st defendant's husband. According to the respondents, the above document cannot be marked through the petitioners. But mere marking of a document will not be amounting to the proof of the document. The petitioners have to prove the same independently by adducing evidence. The respondents can question and dispute the veracity of the document after it was marked as evidence. They have every opportunity to question about the genuineness and validity of the document once it is marked. Hence this court is of the view that the above document also can be received as additional evidence on the side of the petitioners subject to proof and relevancy.

7. Hence considering the above facts and circumstances of this case and in the interest of justice this court is of the view that this petition deserves to be allowed and the documents can be received as additional evidence on the side of the petitioners subject to proof, relevancy and admissibility and accordingly this point is answered.

8. In the result this petition is allowed and the documents are received subject to proof, relevancy and admissibility.

Dictated to the the steno-typist directly and computerized and printed by her and corected and pronounced by me in the open court on this the 20th day of February 2024.

**Principal Sub Judge,
Palani.**

Petitioners side witnesses and documents: NIL

Respondents side witnesses and documents: NIL

**Principal Sub Judge,
Palani.**

Principal Sub Court, Palani
I.A.No.2/2024
in
O.S.No.435/2015
Fair/Draft Order
Date : 20.02.2024