

IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DHARMAPURI.

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Friday, this the 14th day of June 2024.

I.A.No.10/2023

in

I.A.No.6/2022

in

O.S.No.66/2021

Madhu

... Petitioner/plaintiff

/versus/

1. Vairam
2. Dhanabal
3. P.Raju

...Respondents/defendants

This petition is coming on 7.6.2024 for final hearing before me in the presence of Thiru.R.Arul Ganesh, Advocate for petitioner and Thiru.C.Periannan, Advocate for respondents 1 and 2 and Thiru.S.Ramamoorthy, Advocate for third respondent and upon hearing the arguments of both side and on perusal of the entire case records and having stood over till this day, this court pronounced the following:

ORDER

This is a petition filed under section 151 of CPC to reopen the case.

2. The case of the petitioner in brief is as follows:

According to petitioner/plaintiff, the case is posted for orders on 4.9.2023 in

I.A.No.6/2022. He needs to file expert opinion petition to know the genuineness of the document under section 45 of Indian Evidence Act. Hence the case has to be reopened for filing section 45 petition under Indian Evidence Act. So, petition has to be allowed.

3. The counter filed by the third respondent in brief is as follows:

All the allegations in the petition are not correct and this petition has been filed only to divert the issues involved in the case. The Honourable Madras High Court in CRP.1465/2021 passed final order on 29.4.2022 and after that the petitioner filed proof affidavit on 12.7.2022 containing contrary allegations. Hence the respondent has filed petition to decide I.A.No.6/2022 to decide the jurisdiction of this court. It has been clearly held by Honourable Supreme Court and under section 22E(4) of Legal Services Authorities Act 1987 that civil suit is not maintainable to set aside the Lok Adalat award. In this case, plaintiff without seeking for setting aside the award has cheated the court by asking for the relief to cancel the registered document. The plaintiff has also admitted in counter filed in I.A.No.6/2022 that he has not sought for setting aside the Lok Adalat Award. So, it is clear that plaintiff also admits that this court has no right to set aside the Lok Adalat Award. There is no connection between I.A.No.6/2022 and this petition and the petition has been filed only to drag on the proceedings.

4. The point for consideration:

Whether the petition is liable to be allowed or not?

5. No oral evidence adduced on both side. On the third respondent side Ex.R1 has been marked. Heard both side arguments.

6. Point:

6.1) The petitioner alleges that I.A.No.6/2022 which has been posted for orders has to be reopened for the purpose of filing petition under section 45 of Indian Evidence Act.

6.2) The respondent/third defendant resisted the petition by contending that petition has been filed only to drag on the proceedings, there is no connection between this petition and I.A.No.6/2022 and the petition is liable to be dismissed.

6.3) The third respondent in order to substantiate his case produced Ex.R1 Proof affidavit filed by plaintiff in the court on 12.7.2022.

6.4) This court is of view that in order to provide petitioner an opportunity to prove case, prevent multiplicity of proceedings and for proper of adjudication of case, petition is allowed. Hence point for consideration is answered in favour of petitioner.

In the result, petition is allowed. In the facts and circumstances of case, both parties are directed to bear their own costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 14th day of June 2024.

Additional District Judge,
Dharmapuri.

Petitioner Side Evidence, Exhibits: Nil.

Respondents Side Evidence: Nil

Third Respondent Side Exhibits: Nil

Ex.R1	12.7.2022	Proof affidavit of plaintiff.
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Additional District Judge,
Dharmapuri.

Fair Order

I.A.No.10/2023 in

I.A.No.6/2022 in

O.S.No.66/2021

Dated:14.6.2024.