

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI
KRISHNAGIRI DISTRICT**

**Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.
District Munsif, Uthangarai**

On this Tuesday, the 15th day of October 2024

I.A.No. 15 of 2024 in O.S.No. 50 of 2013

TNKI13-000008-2013

1. Santhagowri
2. Selvi
3. Chithra
4. Madhavan
5. Kalidhas

...Petitioners / Defendants 4 to 8

/versus/

Ramesh

...Respondent / Plaintiff

This interlocutory application came up before this Court on 15.10.2024 for final hearing in the presence of advocate Thiru. G. Vajjiravel, the learned counsel for the petitioner and advocate Thiru. S. Moorthi, the learned counsel for the respondent and upon hearing both sides and on perusal of records and having stood over for consideration till date, this Court delivers the following:

ORDER

The application has been filed under section 151 of the Code of Civil Procedure, 1908 seeking to re-open the defendants side witness which was closed on 27.08.2024.

The averments of the petitioners in brief:

1. The petitioners herein are the defendants in the suit instituted by the respondents for partition and injunction and aver that the suit stood posted for cross-examination on 27.08.2024 for cross-examination, and hence, the petitioners not appear before the Court due to illness of the 7th defendant. The petitioners aver that



the defendants side witness was closed on 27.08.2024 and it is necessary to cross-examine the defendants side witness. Hence, the petitioners pray for allowing this application and seek to re-open the defendants side witness which was closed on 27.08.2024.

The averments of the respondent in brief:

2. The respondents deny the averments of the petitioners in toto and aver that the petitioners have been given multiple opportunities to adduce evidence and the respondents failed to let in evidence and have filed this application only to prolong proceedings. Hence, the respondents seek for dismissal of the application.

Point for consideration:

3. Whether this application is liable to be allowed?

Evidence:

4. Neither of the parties to this application has adduced any oral or documentary evidence.

Discussion:

5. This Court, having considered the arguments advanced on both sides and thoroughly examined the pertinent case records, proceeds to delineate its findings by the following discussion. This suit has been instituted for partition and perpetual injunction. This application has been filed along with application to receive documents on the side of the defendants and to recall the witness to adduce evidence on the side of the defendants. The petitioners have filed this application seeking to re-open the defendants side witness which was closed on 27.08.2024. A perusal of the case records would show that opportunities for defendant side evidence granted on 20.06.2024, 02.07.2024, 08.07.2024, 15.07.2024, 23.07.2024, 01.08.2024, 12.08.2024, 19.08.2024, 22.08.2024 and finally on 27.08.2024. As the defendants failed to adduce any evidence before this Court, the defendant side evidence was



closed on 27.08.2024. This Court in I.A.No. 14 of 2024, has observed that the petitioners have to be afforded another opportunity to present their case and that the documents produced are essential for making a just and proper decision in the case. This Court allowed I.A.No. 14 of 2024 and, hence, this Court is of considered with that despite the lacuna, this application has to allowed in the interest of justice in order to avoid further delay and multiplicity of proceedings. However, in order to compensate the other side, this Court is of considered view that imposition of cost is just and proper.

Result:

6. As a result, application is allowed on condition of payment of cost of Rs. 500/- (Rupees Five-Hundred only) to the respondents on or before 22.10.2024.

This order was dictated to the steno-typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 15th day of October 2024.

Sd/-
Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.

District Munsif
Uthangarai

Annexure

Petitioner side evidence

Petitioner side Witnesses & Exhibits: Nil

Respondent side evidence

Respondent side Witnesses & Exhibits: Nil

Court Documents: Nil

Sd/-
Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.

District Munsif
Uthangarai