

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

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

On this Friday, the 11th day of November 2022

I.A.No. 03 of 2022 in O.S.No. 02 of 2021
TNKI13-000111-2020

Venkatesan

...Petitioner / Plaintiff

/versus/

1. Perumal
2. Murugesan
3. Sagadevan

...Respondents / Defendants

This interlocutory application came up before this Court for final hearing on 27.10.2022 in the presence of advocate Thiru. E. Lakshmanan, learned counsel for the petitioners and advocate Thiru. A. Arivuchudar, learned counsel for respondents and upon hearing both sides and on perusal of the case records and having stood over for consideration till date, this Court delivers the following:

ORDER

This application is filed under Order VII Rule 14(3) and section 151 of the Code of Civil Procedure, 1908, seeking leave of this Court to receive documents that were not presented at the time of presentation of the plaint.

1. ***The averments of the petitioner in brief:*** The petitioner herein is the plaintiff in the suit instituted against the respondents / defendants for reliefs of declaration and injunction. The petitioner avers that the hearing of the suit is posted for trial and that the documents namely memo ஓ.மு.22173/2022/௫௪4 dated 01.08.2022, certified copies of survey map of 13/4B and survey map for 125/4D are important documents for determination of the suit and seeks for receiving the documents.

2. ***The averments of the respondents in brief:*** The counter of the 3rd respondent is adopted by 1st and 2nd respondents and aver that the I schedule property S.No. 125/4D is in joint possession of the respondents by way of Keelmathur Village Patta No. 338 and the petitioner / plaintiff was not in possession and enjoyment of the same at any point in time. The respondents aver that the petitioner has not clearly explained the reasons for filing this application in his affidavit and aver that the petitioner has not clearly explained for which hearing the petitioner is filing this application, whether he files this application for hearing of the interlocutory application or the suit. The respondents aver that the petitioner has filed this application to change the course of trial and, hence, pray for dismissal of the application.

3. ***The point for determination:*** The point of consideration arising in this application is whether this application is liable to be allowed?

4. No oral and documentary evidence is adduced on both sides.

Discussion

5. Heard both sides and perused case records. Rival contentions were considered carefully. Upon perusal of case records, it is evident that this suit is instituted for declaration of easement and consequential injunction restraining the respondents from interfering with the enjoyment of the cart track. The petitioner / plaintiff has filed this application seeking leave of this Court to receive documents namely memo ஔ.மு.22173/2022/ஔ4 dated 01.08.2022, certified copies of survey map of 13/4B and survey map for 125/4D as plaintiff side documents. The petitioner has not produced these documents at the time of presentation of the plaint and seeks leave of this Court to receive the same now for the trial of the suit. The respondents resisted this application that the petitioner has not clearly explained in his affidavit as to why the petitioner files this application and has not clearly explained whether he files this application for

hearing of the interlocutory application or the suit. Upon perusal of the averments of the petitioner, it is clear that the petitioner has filed this application to receive documents for hearing of the suit and for trial. Hence, the contention of the respondents finds no force. This Court is of view that the respondents have not raised any objection as to the genuineness, admissibility and relevancy of the documents sought to be received and perusal of the documents show that they are not irrelevant to this suit and that the certified copies have been issued after the institution of suit. Even though the petitioner has not assigned any cause for the non-production of the documents at the time of presentation of the plaint which stands against the petitioner, this Court is of view that the respondent has also not raised any serious objection to this application. Various precedents of the Hon'ble Higher Courts direct that liberal view should be taken in allowing applications to receive documents for trial for the reasons that mere allowing of these applications would not entitle the seeking party to mark the documents overriding rules of evidence and does not make it proof of facts unless the party establishes the facts with sufficient evidence. Hence, for the reasons that the respondents have not raised any serious objection as to the nature of documents, the documents appearing relevant and also following the dictums of the Hon'ble Higher Courts, this Court is inclined to allow this application.

6. In the result, this application is allowed and no cost.

This order was typed by me in the computer, corrected by me and pronounced by me in open court on the 11th day of November 2022.

Sd/-XXXX
District Munsif
Uthangarai

Annexure

Petitioner side

Petitioner side witness: Nil
Petitioner side exhibits: Nil

Respondent side

Respondent side witness: Nil
Respondent side exhibits: Nil

Sd/-XXXX
District Munsif
Uthangarai