

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present: Tmt. M.Alima, B.A., L.L.M.,
I Additional District Munsif, Nagercoil.

Tuesday, on the 09th day of January 2024.

I.A. No. 1 of 2023 in O.S. No. 206 of 2021

1.S.Mary Geetha

... Petitioner / Plaintiff

-vs-

1.Robinson

2.Rajesh

...Respondents / Defendants

This petition came before this court on 08.01.2024 for a final hearing in the presence of Mr.M.Parameswaran, Advocate for the Petitioner/Plaintiff, and Mr. M.Padmasanan, Advocate for the 1st Respondent/Defendant and the 2nd Respondent/Defendant called absent set ex-parte. Upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The petitioner had filed the above petition under Order 28(2) of CRP and Section 151 of CPC, seeking to pass an order to advance the case posting date from 24.01.2024 to today.

1) Gist of the Averments in the Petitioner/ Plaintiff's Petition:

The petitioner stated that the petitioner filed the suit along with I.A.No.2/2021 petition for relief of an interim injunction against the defendants. This court has passed interim status quo orders in the I.A.No.2/2021 petition. At last, the earlier

order was extended up to 04.12.2023. Being so, she filed a memo for the extension of the earlier order through the computer filing on 02.12.2023 because of the local holiday on 04.12.2023. Like it be, the 1st defendant put up some soil in the street in front of her house on 17.12.2023 with the intention of disturbing the usage of the pathway by her. The case is posted for further proceedings and also for the respondent side enquiry in I.A.No.2/2021 on 24.01.2024. The Petitioners side enquiry in I.A.No.2/2021 was completed on 17.08.2023 and further posted for the respondent's side enquiry from 05.09.2023 onwards. It is highly necessary to extend the earlier status quo order in I.A.No.2/2021 for proper remedial measures for her. For that purpose, it is necessary to advance the case posting date from 24.01.2024 to today for the proper adjudication of the case. If the case posting date is in advance for the said purpose, it will cause irreparable loss and damage to her. Hence, the petition is to be allowed.

2) Gist of the Averments in the 1st Respondent / Defendant's Counter :

The respondent stated that the plaintiff's petition to advance the posting date is not maintainable in law. The plaintiff did not state any cause of action and reason in the affidavit to advance the posting date. This court has already granted an interim injunction to the petitioner/plaintiff. The commissioner's report and plan were not filed until now. There is no urgency in this matter. Hence, the prayer for advance posting should be dismissed. The same petition to advance the posting date was filed by the petitioner / plaintiff several times, and the same was dismissed by this court. There is no scope for the petition. Hence, the petition is to be dismissed.

3) The point for consideration is whether the above petition has to be allowed or not?

4) Point:

The learned counsel for the petitioner submits that the case is posted for further proceedings and also for the respondent side enquiry in I.A.No.2/2021 on 24.01.2024. The petitioner's side enquiry in I.A.No.2/2021 was completed on 17.08.2023 and further posted for the respondent's side enquiry from 05.09.2023 onwards. It is highly necessary to extend the earlier status quo order in I.A.No.2/2021 for proper remedial to the petitioner. Hence, the petitioner claimed to be allowing this petition.

5) The learned counsel for the respondents submits that to advance the posting date is not maintainable in law. The same petition to advance the posting date was filed by the petitioner / plaintiff several times, and the same was dismissed by this court. There is no scope for the petition. Therefore, he claimed to be dismissed.

6) Heard. Records perused. This court passed a status quo order in I.A. on 08.11.2021. The earlier order was extended until 04.12.2023 and posted on 04.12.2023 for the respondent side enquiry. On 02.12.2023, the petitioner filed a memo through the draw box requesting an extension of the status quo order. The said memo was not registered in the I.A.No.2/2021, because of the local holiday, this case was adjourned on 24.01.2024, and the interim status quo order was not extended by this court.

7) The petitioner has filed this petition in order to advance the original case and register the said memo in I.A.No.2/2021 and the status quo order may be extended. The reasons mentioned in the petition were bona fide and acceptable. Considering the reasons mentioned in the petition and stage of the case, this court of opinion that it is necessary to advance the above-mentioned suit and I.A.No.2/2021 to an earlier date. Hence, in the interest of justice, this court is inclined to allow this petition.

8) As a result, this petition is allowed. without cost. The above-mentioned suit and I.A.No.2/2021 hearing advanced on 10.01.2024.

Dictated to the Typist, and typed by her, corrected and pronounced by me, in open court this, the 09th day of January, 2024.

I Additional District Munsif,
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

I Additional District Munsif,
Nagercoil.

Draft/Fair Order
I.A.No. 1/2023 in
O.S.No.206/2021
Date: 09.01.2024.
I ADM, Nagercoil.