

/1/

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF,
PADMANABHAPURAM.

Present: **Sri.M.DHARMAPRABU, M.A.,LL.M.,**

Principal District Munsif

Thursday, the 17th day of September, 2020

I.A. No. 2 & 3 of 2019 in O.S. No. 302 of 2006

1. Elici
2. Jones
3. Raji ... Petitioners/ D8 to D10

Vs.

1. Lawrence
2. Rajammal (Died)
3. The State of Tamil Nadu rep. by its
District Collector
4. The Tahsildar, Kalkulam
5. Selvaraj, Firka Surveyor,
Kalkulam
6. Sudesan, Inspector of Police,
Thuckalay Police Station
Thuckalay.
7. Suganthi
8. Leela
9. Devi
10. Dhas ... Respondents/Plaintiffs

Both the petitions came up for final hearing today and Shri.K.S. Sanilkumar, for the Petitioners/ D8 to D10 Defendants and Shri. S. Alwinvethamoni, for the Respondents/Plaintiffs on record and the matter having stood over for my consideration till this day, I delivered the following

COMMON ORDER

The petition in I.A. No. 2 of 2019 is filed under Section 151 of the Code of Civil Procedure (in short, 'the Code') with a prayer to receive the Counter Statement in I.A. No.1 of 2019 on behalf of the petitioners/D8 to D10. The petition in I.A. No.3 of 2019 is filed under Order 9 Rule 10 of the Code with a prayer to set aside the *exparte* order passed in I.A. No. 1 of 2019 dated 18.11.2019 as against the petitioners/D8 to D10.

2. The crux of both the petitions:-

The Respondent/Plaintiff filed a petition I.A. No.1 of 2019 to amend the plaint with false allegations. The 10th defendant who was conducting the case on behalf of the other petitioners was ill and therefore Counter Statement could not be filed in the said I.A. No.1 of 2019 that resulted in the *exparte* order against these petitioners.

3. The crux of the counter statements:-

The petitions are not maintainable. The amendment proposed in I.A. No. 1

of 2019 is necessary for proper adjudication. The petitioners were very negligent in proceeding with the case and after sufficient chances were afforded by the Court, the petitioners were set *ex parte* on 18.11.2019. These petitions are filed to delay the trial and to harass the Respondent.

4. Due to prevailing pandemic Covid-19 situation, the Courts of the entire State are functioning in a staggered and restricted manner as per the direction of the Hon'ble High Court and limited number of cases are being posted on day-to-day basis for physical hearing in the Court and video conferencing facility is also being utilized for hearing the cases.

5. The matter has been listed today for hearing both sides and there was no representation on either sides. Having regard to the fact that these petitions were filed on 16.12.2019 and pending for more than 9 months, this Court is of the opinion to decide the matter on the basis of the materials available on record.

6. I have carefully perused the entire records.

7. The point rises for consideration is as to whether the petitions are liable to be allowed or not.

8. The Original Suit was filed in the year 2006 and pending for trial. At that time, the petition in I.A. No. 1 of 2019 was filed for certain amendments in the Plaint in which the Court has granted adequate opportunities to file

Counter Statement and on the default of these petitioners, an *exparte* order was passed on 18.11.2019. The said order has been sought to be set aside and permission is prayed for filing counter.

9. It is pertinent to note that the amendment is sought for in the original plaint and the suit is in the pre-trial stage. Having regard to the same, without prejudice to the contention that could be premised by these petitioners in the contest of the amendment petition in I.A. No.1 of 2019, I am of the view to grant an opportunity to the Petitioners to have the amendment petition contested on certain conditions. While holding so, this Court is also aware of the fact that affording an opportunity to the petitioners would not, in any manner, prejudice the respondent and the Respondent could be compensated by payment of some Costs. Thus, the point is answered.

In fine, both the petitions will be allowed on payment of Rs.2000/- (Rupees Two thousand only) to the respondent on or before 10.09.2020. Call on 12.10.2020.

Dictated to the steno-typist, transcribed and typed by her, corrected by me in my Laptop and pronounced by me in the Open Court on this the 17th day of September, 2020.

Principal District Munsif,
Padmanabhapuram.