

**IN THE COURT OF THE DISTRICT MUNSIF,
ERANIEL.**

Present: Thiru. A. Maruthupandi, B.Com., B.L.,

District Munsif, Eraniel. (F.A.C.)

Friday, the 15th day of September 2023

I.A.No.02/2023

in

O.S.No. 108/2014

1. R.Sekar
2. Gnanaselvi.

Petitioners/Plaintiffs

vs

1. R.Madaswamy
2. A.Murugan

Respondents/Defendants

This petition is coming before me for final hearing on 01.09.2023 in the presence of Mr.S.Murugesan, learned counsel for the Petitioners/Plaintiffs and Mr.Chandrasekar, learned counsel for the 1st Respondent/1st Defendant and Mr.P.Selvaraj, learned counsel for the 2nd Respondent/2nd Defendant and upon hearing the arguments on both sides and on perusal of the case records and having stood over for consideration till this day, this court delivered the following

Order.

This petition is filed under Order VIII Rule 9 and Section 151 of the Code of Civil Procedure 1908 to grant permission and receive the enclosed reply statement.

2. THE AVERMENTS IN THE PETITION IN BRIEF:-

Petitioners are filing reply statement and the same to be read part and parcel of this affidavit and petition too. This reply statement is subsequent events to this suit.

The same has to be received necessarily to effectively decide the matter in issue before opening of trial. It will be very useful in rendering justice to both the parties. Without pleadings no amount of evidence can be let in or looked into, so this reply statement is very necessary for our evidence in the trial. If this petition is allowed, there will be no loss or hardship to the respondents. Otherwise, we will be put into great irreparable loss and hardship. Hence, to grant permission and receive the petition enclosed reply statement.

3. THE AVERMENTS IN THE COUNTER FILED BY THE 2nd RESPONDENT / 2nd DEFENDANT IN BRIEF:-

The reply statement filed by the petitioners is not maintainable in law and on facts. It is not correct to state that “After written statement of the defendants dated 14.10.2014, without any counter claim in the suit , 2nd defendant filed separate suit as O.S.No.333 of 2017 before Padmanabhapuram Sub Court and the same was transferred to Eraniel Sub Court as O.S.No.27 of 2019 for the same suit schedule property and the same was dismissed on 20.12.2021. So the defendants are not entitled to contest this suit legally. But, the true fact of the 2nd respondent / 2nd defendant has filed a suit for declaration, recovery of possession and permanent injunction against the petitioners/plantiffs before the Honourable Sub Court, Padmanabhapuram as OS.No.333/2017 and the same was transferred to the Eraniel Subordinate Judge and it was renumbered as O.S.No.27/2019 , while the case was posted for trial on 20.12.2021 due to the ill-health condition the 2nd respondent / 2nd defendant unable to give evidence on that day So the suit has passed an ex-party order against the 2nd petitioner / 2nd defendant on the same day that suit was dismissed for default. The 2nd respondent / 2nd defendant further stated that he filed restore petition along with delay petition. The petition is not maintainable in law and facts, hence petition is liable to be dismissed.

4. POINTS FOR DETERMINATION:-

Whether the petition is allowed or not ?

5. DISCUSSION AND ANALYSIS:-

Petitioners/Plaintiffs side heard. Records perused carefully.

i) On perusal of an affidavit the reasons for filing reply statement of subsequent events is a reasonable one and more over if this petition is allowed no prejudice would be caused to the respondents/defendants, because of the petitioners/plaintiffs have only to prove their case and to state all the facts to get a relief fully and more over if they fails to state the necessary facts then they will not be permitted to file a fresh suit. So, in the interest of justice and to avoid an unnecessary multiplicity proceedings this court is inclined to allow the same for proper and effective adjudication.

6. DECISION:-

In the result, petition is allowed.

Written by me, typed by the Steno-Typist in computer, corrected and pronounced by me in open court, on this 15th day of September 2023.

Sd/-A.Maruthupandi
District Munsif
Eraniel. (F.A.C.)

True copy