

**IN THE COURT OF ADDITIONAL DISTRICT COURT (FAST
TRACK COURT)**

Present: Thiru.A.Saravanakumar, B.A.,B.L, .

**Additional District Judge,
Additional District Court, (FTC)
Kancheepuram.**

**Date: day, the 30th day of August 2024
I.A.14/2024 O.S.No.215/2010**

1. Gokula Rao
2. Shantha Kumari
3. Karunya Devi . . . Petitioners/6,5 &7th defendants

/VS/

1. Prema kumari
2. Shantha Kumari (deceased)
3. Lakshmi
4. Janardhanan
5. Vijaya Samundeeswari . . . 1 to 5 Respondents/Plaintiffs

6. Swadeshi Kumari
7. Vasantha Priya
8. Pappi . . . 6 to 8 Respondents/2 to 4 defendants

This petition is came up on 27.08.2024 for final hearing before me in the presence of Tr.N.Gokula Rao (Party in Person) for the Petitioners and Tr.S.Rajendiran Advocate for the Respondents, and upon hearing the arguments on both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

This application is filed by the petitioners under Or.16 Rule 1 r/w. section 151 of CPC to permit him to examine the witness mentioned in the petition in order to depose the factual position with regards Ex.B12 and other relied documents.

2. Petition in Brief:

The petitioner submits that, the original suit for partition and mesne profits in question as ad mentally rooted with falsehoods. It was instigated by the respondents/plaintiffs with their husband and brother-in-law who is also a co-parent-in-law. The legal action was launched more than 31 years after the succession was

initially opened. It arises from a scheme involving malicious , impersonation, designed to unlawfully seize properties that are rightfully owned and peacefully possessed by him and his family. The deceitful suit was initiated in response to a challenge made by his father, the 1st defendant. The partition suit was falsely presented for properties that had already been settled 3 decades ago. The purposed cause of action described in the plaint is a pretext the real motive behind the suit is to intimidate and coerce the 1st defendant into addressing personal disputes and grievances. This action not only disregards the established legal status of the properties but also reflects a deliberate attempt to exploit the legal system for personal vendettas undermining the integrity of the judicial process. The original suit was dismissed in 2015 due to the plaintiff's default approximately one year later, while the 1st defendant was at the end of the life, the plaintiffs revived the suit without prior notice, intending to obtain an ex parte decree. The petitioners have also raised concerning the 2 & 3 plaintiffs/respondent's husband Janardhanan and Srinivasan and their brothers perpetrated fraud by selling his separate properties and as well as the part of the item No.3 suit schedule property which belongs to this HGUF, for which the petitioner has submitted the false sale deed Doc.No.377/1992 marked as Ex.B12 done buy them to the 3rd party by stating the false informations like the said property is inherited by Janardhanan and Srinivasan along with their other brothers however neither the said false deed contain any clarifications about the title of Gopal Naidu or his sons Janardhanan, Srinivasan and their brothers, merely statement of in the false sale deed will not confirm any title to them.

The petitioner further submits that even from the plaintiff side there were no documents has been submitted to clear the ambiguity of the item No.3 of suit schedule property and also the other properties in the said village. There has been undue delay in the submission of this witness list. The need for these documents and witness evidence has only recently emerged, and any delay in filing should not be attributed to any willful or negligent conduct on his part. In order to complete justice to the parties to the litigation and to afford an opportunity to this impleaded defendant to defend the suit proceedings and hence this petition.

3. Counter in brief:

The allegations stated in the petition are false. The respondent submits that the present suit is posted for argument. At this juncture pending is his mother 2nd plaintiff Shanthakumari died leaving behind the 4th and 5th plaintiffs were impleaded in the suit as legal heirs of deceased Shanthakumar. The petitioner is to protract the proceedings so that the fruits of justice should not be enjoyed by the plaintiffs during their life time and no piece of property should be shared to the plaintiffs and the other defendants No.6 to 8. The petitioner/6th defendant has any grievances over the said property sold by the afore-mentioned Janarthanan and Srinivasan under Ex.B12 the same has to be agitated in separate suit to establish his stand, while such being the situation, the present application to summon Srinivasan before this court. In respect to item No.3 of the suit schedule property the plaintiffs have no documents and also for the other properties in the said village set forth by the petitioner/6th defendant is totally inconsistent and irrelevant to the written statement filed by his father Nageshwara Rao admitting that the plaintiff's right over the properties covered in the plaint suit schedule property. The title in item No.3 of suit schedule property is not relevant and to summon G.Srinivasan before this court the legal heir ship of the plaintiffs was neither denied by the petitioner/6th defendant nor by his father Nageshwara Rao during his life time and by other defendants in the suit.

The respondent further submits that regarding the legal heir ship of Chandra Kanthan neither Nageshwara Rao of the plaintiffs nor the legal heirs of deceased Madhana Gopal challenged the same that the plaintiffs are not related to each other and further it is admitted fact that the plaintiffs are all legal heirs of deceased Ethirajulu and Chandrakanthan, while so the present application to summon the Thasildar, Purasaivakkam. The Thasildar is not relevant and same is to protract the proceedings unnecessarily as there is no whisper about the same in the written statement filed by Nageshwara Rao to deny the relationship of the plaintiffs and defendants and prayed for dismissal of the petition.

5. The Point for consideration is whether the petition is to be allowed as prayed for?

6. Answer to the Point.

The instant application is filed under Or.16 Rule 1 of CPC to permit the petitioner to examine one Srinivasan S/o.Gopal Naidu as a witness on his side to depose factual position with regard to Ex.B12 marked in the original suit. The petitioners are 4,5 and 7th defendants in the original suit and 1st to 5th respondents are the 1 to 5th plaintiff therein. The original suit is filed for the relief of partition and separate possession. Parties have entered into respective pleadings, issues were settled, evidences were let in. The case is posted for arguments. At this stage the petitioners come forward with this present application stating examination of one Srinivasan is necessary to prove the fact that Ex.B13 was a false document. The petitioner submitted that so far as the item NO.3 of the plaint schedule property Ex.B12 was marked. The petitioners were raised objection that Janardhanan and Srinivasan and their brothers perpetrated fraud by selling the petitioners separate properties as well as part of the item No.3 of the schedule property which belonged to Hindu Undivided family in Ex.B12. Therefore in order to prove the fact that there was a collusion in executing Ex.B12, his examination is necessary. Per contra, the respondent has filed a detailed counter wherein it is submitted that obtaining the oral testimony of Sinivasan S/o.Gopal Naidu is not at all relevant to the property acquired by legal heirs of deceased Ethirajulu Naidu and her successor and her inheritance. The application is filed by the petitioners with an intention to protract the proceedings unnecessarily and his examination is totally irrelevant to the factual basis of the case. This court has considered the submission of the respective sides. Already Ex.B12 was marked before the court. Now the petitioners wanted elucidate certain facts surrounding Ex.B12 in order to substantiate their allegations. Therefore this court is of the view that an opportunity may be given to the petitioners to examine the petition mentioned witness Srinivasan. If this petition is allowed no prejudice would would

cause to the respondents, since they have got opportunity to cross examined the witness.

7. During the cross examination the respondents have chance to disprove the plea of the petitioners. At the same time it has to be noted that the application is filed at the time of arguments. In spite of the lapse of long period of time, the petitioners have not come forward with this application at the earliest stage and thereby caused delay to the 1st to 5th respondents. Therefore this court is further of the view that reasonable cost may be imposed while allowing the application.

8. In the result the petition is allowed on the payment of cost of Rs.5,000/- to be paid directly to the 1st to 5th respondents on or before 14.10.2024 otherwise the petition shall stand dismissed. Call on 15.10.2024.

Dictated to Steno-typist directly typed by her in computer, corrected and pronounced by me in open court this the 26th day of July 2024.

Sd/-A.Saravanakumar

**Additional District Judge,
ADC, (FTC)
KANCHIPURAM.**

Petitioners side Exhibits: NIL

Respondent side Exhibits: NIL

Sd/-A.Saravanakumar

**Additional District Judge,
ADC, (FTC)
KANCHIPURAM.**

/True copy/

Draft/Fair Order
I.A.15/2024 in O.S.215/2010
Dt: 26.09.2024
ADJ,KPM

I.A.15/2024 in O.S.215/2010

Dt: 26.09.2024

Orders pronounced.

In the result the petition is allowed on payment of cost of Rs.5000/-to be paid directly to the 1st to 5th respondents on or before 14.10.2024 otherwise the petition shall stand dismissed. Call on 15.10.2025.

ADJ
ADC,FTC,
KPM

