

In the Court of the District Judge, District Court No. II,
Kancheepuram.

Present: Thiru G.Karunanithi, B.Sc.,M.L.,
District Judge, District Court No.II,
Kancheepuram.

Tuesday, the 19th day of February 2019

I.A.Nos. 54/2019 & 81/2019 in OS.No. 34/2014

1. C.Roseline Mary.
2. G.Vijay Antony @ Vijay Antony George
----- Petitioners/Defendants 1 & 3
in both I.As

//vs//

1. C.Saleth Mary.
2. C.Mariya Joseph.
3. C.Saaya Mary.
4. C.Carmel Santhi.
5. C.Noel Francis
----- Respondents/Plaintiffs,
Defendants 2 & 4 in both I.As

These petitions coming on 13-02-2019 for hearing before me in the presence of Tvl. Augustinepaul, P.Paulselvam and V.Prasad, Advocates for petitioners in both I.As and Thiru M/S R.Raghunath, Advocates for Respondents 1 to 3 in both I.As, Respondents 2 & 4 called absent set ex parte, upon hearing the arguments on both sides, upon perusal of records and having stood over for my consideration till this day, this court delivered the following

ORDER

This petition in I.A.No. 81/2019 has been filed Under Order 8 rule 1(a) CPC to receive additional documents and IA.No.54/2019 has been filed under Sec. 152 CPC to keep the original unregistered Will dated 27-09-2001 and original deed of loan in the

safe custody of the Court.

(2) The brief averments made in Both Petitions are as follows:-

The petitioners are defendants 1 & 3 in the suit. The plaintiff filed the suit for partition. The first petitioner suffering from diabetes and high blood pressure. He is taking treatment for the past several months. The documents are in the custody of his son and subsequently it was misplaced in his house. Only last week he traced out the documents. They are important documents to establish his case. Due to the above reason the petitioner was unable to file the documents along with the written statement. It is beyond the control of the petitioners. If the delay is condoned it will not prejudice to the other side. Hence, the petition may be received to the file of the document. The plaintiffs are influential persons. They may try and extricate the documents since the certified copy thereof cannot be obtained until the same is marked. They may go to any extent. Hence, the document may be kept in safe custody. If the application is allowed it will not prejudice to the other side. Hence, petition may be allowed.

(3) Counter averments made in both petitions are as follows:

The documents 4 & 5 are unregistered documents and hit U/s 17(i) of Registration Act. They are inadmissible in evidence. They are concocted and forged documents. The father Chinnappan never executed any Will or loan document. The petitioners accusing the respondents in order to damage the reputation of the respondents.

There is no provision of law to put the documents in safe custody of the court. The allegation that the first petitioner suffering from diabetes and blood pressure is false. The reason stated that the document misplaced and subsequently traced are also false. The petitioners were given ample opportunity to produce the documents. The documents 1 to 6 are copies and the same cannot be received and marked as exhibit for want of stamp duty. The Will is not probated. To fill up the lacuna the above documents were filed by the petitioners. Hence, the petition may be dismissed.

(4) The point for consideration in both the petitions are
Whether both petitions deserves to be allowed?

(5) **Point:** Heard. Records perused. The counsel for the petitioners submitted the facts as mentioned in the petition and as well as in the counter. On perusal of case records it is seen that the plaintiff filed the suit for partition and declaration that the settlement deed dated 28.06.2013 and Will dated 27.09.2001 are invalid and null and void and not binding the plaintiffs and also consequential injunction. Now the case is posted for defenants side evidence. Now the defendants filed this petition to receive the documents and to keep the documents in safe custody of the court.

(6) The first document is certified copy of sale deed dated 15.11.1971. The 2nd document is chitta copy given by Village Administrative Officer. The 3rd document is Adangal copy given by the Village Administrative Officer. The 4th document is General Power of attorney deed dated 20.11.2000. The 5th document is the Original unregistered Will dated 27.09.2001. The 6th document is the

settlement deed dated 28-06-2013.

(7) The plaintiffs claimed declaration in respect of document Nos. 5 & 6. Therefore, the above documents are necessary documents. As far as the documents 2 & 3 ie chitta and Adangal are concerned they were given by the Village Administrative Officer. Hence, they cannot be marked. As far as the 1st document is certified copy and document No. 4 is agreement for power of attorney deed. Therefore, they can be received.

(8) In view of the above discussion this court come to the conclusion that the documents 1 , 4 to 6 are liable to be received. Hence, the petition is liable to be allowed partly. In respect of documents 2 & 3 the petition is liable to the dismissed. Further, the document No. 4 & 5 are unregistered documents. If they are misplaced copy cannot be obtained. Therefore, the above said document Nos. 4 & 5 can be put in safe custody as requested by the petitioners. It is the matter between the petitioners and court. It will not prejudice to the respondents. Hence, the IA.No. 81/2019 is liable to be allowed partly. I.A.No. 54/2019 is liable to be allowed.

(9) In the result, I.A.No. 81/2019 is partly allowed. Receive the documents 1, 4 to 6 to the file of this case. In respect of documetns 2 , 3 petition is dismissed. No costs.

(10) In the result, I.A.No. 54/2019 is allowed. No costs.

Direct dictation given to the stenographer, computerized by her, corrected and pronounced by me in open court, this the 19th day of February 2019.

Sd/-G.Karunanithi
District Judge,
District Court- II,
Kancheepuram.

Draft/Fair Common Order

I.A.No. 54/19 & 81/2019

O.S.No. 34/2014

DD 19-02-2019

District Court No.II,

Kancheepuram.