

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF AT
KANCHEEPURAM

PRESENT: Tmt.R. Rajeswari,B.Com.,L.L.M.,
Principal District Munsif, Kancheepuram.

On Monday, this the 10th day of February 2025

IA.No. 11/2024
in
O.S.No. 241/2021

A. Ibnool Gowm ... Petitioner/Defendant
/Versus/

A.Mohamed Ameer Basha ...Respondent/ Plaintiff

This petition has come up on 07.02.25 before me for final hearing in the presence of M/s.L.Sowmiya Narayanan and M.Priya advocates for the Petitioner/Defendant and M/s.D.Vinothan advocate for the Respondent/Plaintiff and upon hearing the arguments and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

ORDER

1. This petition is filed by the petitioner Under section 151 of CPC to re-open the above case for adducing further arguments on defendant side and thus render justice.
2. **Brief facts in the petition are as follows:-**

The petitioner submit that in the above case, the Petitioner have already made arguments through his counsel and the same is posted for judgment on

20.12.2024. In the circumstances, he have to make additional arguments in the above matter, because the present plaintiff had filed a suit for partition in O.S. No. 256/ 2021 on the file of Hon'ble Additional Sub-ordinate judge at Kancheepuram, which was dismissed on merits. Therefore, the larger suit for partition was dismissed lesser suit for mandatory injunction have to be decided with reference to the above suit. The respondent/plaintiff is making faint attempt that the properties are different. Hence the above matter ought to be reopened for adducing further arguments on his side. Hence this petition.

3. The Respondent / Plaintiff filed his counter and the gist of the same is as follows:

The Respondent/Plaintiff submit that the property mentioned in this case is with survey no.3093/2 situated in Olimuhamed pet, Kanchipuram and the property mentioned in this suit is the property received by the respondent/plaintiff and he was in possession and enjoyment and the suit property was received by the respondent plaintiff from the year 2011 onwards and constructed the shop and running for his own self earning job of Two wheeler seat repair shop and the Petitioner/Defendant never interfered up to the death of his father and in the year 2021 on dated 09.08.2021 at early morning the Petitioner/Defendant had with an ill-intention unlawfully breaked the lock of the Respondent's/Plaintiff's shop and unlawfully thrown out the materials in to street and the

Petitioner/Defendant had placed his things and unlawfully occupied in the shop and hence this suit filed against the Petitioner/Defendant for his unlawful act and the respondent/plaintiff claimed his fundamental rights of his shop premises of the suit property.

4. The Respondent/Plaintiff submit that the suit of O.S.No. 256 of 2021 is filed for claiming partition on the part of the family property of survey no.3049/1B, 3049/2 situated in Olimuhamed pet, Kanchipuram and praying declaration and was filed against the family members and was mainly dismissed on the part that not included two sons of the second wife of Mr.A.Ahamed Moideen, but the Petitioner/Defendant had diverted this suit by comparing with the family partition suit .
5. The Respondent/Plaintiff submit that the suit of O.S.No.241 of 2021 filed before this Court with the prayer is Mandatory injunction on the enjoyment patta and the suit of O.S.No.256/ 2021 filed before the Hon'ble Additional Sub-Judge Kanchipuram, is partition with declaration and further that suit claim and property nature are entirely different, but the petition filed by the petitioner with averments are trying to divert the case and wanton delaying the matter of the suit filed by the respondent/plaintiff. Hence, the petition is liable to be dismissed.
6. **The point for consideration in this petition is whether this petition is to be allowed or not?**

7. Heard both sides arguments and connected material records perused. It is the case of the petitioner that the larger suit for partition was dismissed lesser suit for mandatory injunction have to be decided with reference to the above suit. It is the case of the Respondent/Plaintiff that the Petitioner/Defendant as is making faint attempt as the properties in both suits are different. Any how an opportunity has to be given to the Petitioner to contest this case.
8. Hence, Considering the facts and circumstances, this petition is liable to be allowed.
9. In the result, this petition is allowed. No cost.

Dictated to the steno-typist, who directly typed in computer. Pronounced by me in open court, this the 10th day of February 2025.

(S/d.R.Rajeswari)
**Principal District Munsif,
Kancheepuram.**

ANNEXURE:

List of Petitioner's Side Witnesses and Exhibits – NIL

List of Respondent's Side Witnesses and Exhibits – NIL

(S/d.R.Rajeswari)
**Principal District Munsif,
Kancheepuram.**