

In the Court of the District Munsif, Melur
Present: Thiru. S.Muthukrishna Muralidass M.A., M.L.,
District Munsif, Melur.

Monday the 25th day of March 2024

I.A.No.1/2019
in
O.S.No.135/2015

T.Rani	-	Petitioner/Plaintiff
-Vs-		
1.T.Nalla Thambi 2.N.Janaki	-	Respondents/ Defendants

This petition coming up before me for final hearing on 11.08.2023 in the presence of Thiru.S.Manimaran, advocate for the petitioner/plaintiff, Thiru.Pandi Selvam, advocate for the respondent No.1/defendant No.1, Thiru.Marriappan, advocate for the respondent No.2/defendant No.2 and upon hearing both sides, upon perusing the case records and having stood for consideration before this court till this date, this court passed the following

ORDER

1. This petition has been filed by the petitioner/plaintiff U/O 6 R 17 CPC to amend the relief by inserting new relief of declaration of title and recovery of possession.

2. The petitioner would contended that as per the report filed by the advocate commissioner, it came to know that these respondents have encroached 11.6 meter North South on the Western side, 11.6 meter North South on the eastern side, 2-8 meter East West on the Southern side and 2.6 meter East West on the Northern side. Therefore this petitioner wants to amend the relief sought for in the plaint by inserting relief of declaration of title and recovery of possession and replacing the relief of permant injunction.

3. The respondent though admitted that advocate commissioner filed report based on the assignment patta to the suit property, he alleged that said assignment patta has been issued wrongly. The respondent denies the encroachment alleged to have been made in the suit property. Hence prayerd for dismissal.

4. Heard rival contention of both side and perused entire records.

5. Now, the point for consideration is whether this petition has to be allowed or not?

6. The main suit has been filed for seeking relief of permanent injunction restraining the defendants from interfering the peaceful possession and enjoyment of the plaintiff in the suit property. Based on the report filed by the advocate commissioner, the petitioner wants to amend the plaint by inserting a new relief of declaration of title and recovery of possession from the defendants which they alleged to have encroached upon the suit property. The respondent has an objection that, based on the assignment patta the suit property was measured and shown as encroachment in the suit property made by the respondent/defendant. The said patta itself wrongly issued and based on the said patta, suit property measured.

7. A perusal of sketch filed by the advocate commissioner want shows as if certain portion of the suit property as alleged by the petitioner is encroched by the respondent. Whether, the patta was issued legally or not is the question to be determined at the time of delivering judgment. Now, the petitioner came up with this application for inserting additional relief. It is pertinent to note that the trial in the present case has not yet commenced. Hence for the aforesaid reason and to avoid mutiplicity of proceedings, this petition is allowed. No cost.

Dictated to the Steno typist, directly typed by him on my laptop, corrected by me and pronounced by me in open court on this 25th day of March 2024.

Sd/-
(S. Muthukrishna Muralidas, M.A., M.L.)
District Munsif,
Melur.

Witnesses examined on both sides :- Nil
Documents marked on Both side:- Nil

Sd/-
(S. Muthukrishna Muralidas, M.A., M.L.)
District Munsif,
Melur.

District Munsif Court, Melur
I.A.No.1/2019
in
O.S.No.135/2015
Draft Order
25.03.2024