

IN THE COURT OF THE DISTRICT MUNSIF, MELUR.

Present: Thiru.S.MUTHUKRISHNA MURALIDAS, M.A.M.L.,

DISTRICT MUNSIF, MELUR

Monday, the 29<sup>th</sup> day of July 2024

I.A No. 6/2024

in

O.S. No. 221/2016

1. V. Rajasekaran.

2. R. Amali.

...Petitioners/2,4 Defendants

.Vs.

F. Fransis Bastin.

...Respondent/Plaintiff

This petition has been coming before this court for final hearing on 18.07.2024 in the presence of Thiru. S. Manimaran, Advocate for the Petitioners/2,4 Defendants and Thiru. D. Kesavan, Advocate for the Respondent/Plaintiff and upon hearing the enquiry on both side and having stood over for consideration till this date, this court delivered the following...

### **ORDER**

1. This petition is filed under Order VIII Rule 1-A(3) CPC seeking to receive the documents mentioned in the petition belatedly on the side of the petitioner/defendant.

2. The case of the petitioner that in Order to establish their case they want to produce the petition mentioned documents. All those documents were produced in the suit proceedings in O.S.No.3/2017 I.A.No.6/2024 in O.S.No.221/2016

which is connected to the suit pending in this court, they could not able to produce before this court in this case.

3. The case of the respondent is that all the documents produced before this court along this petition are created for the purpose of the suit by this petitioners in colluded with the 3<sup>rd</sup> defendant and this documents are forced one, not relevant to the facts of the case. Further, alleged will produced along with this petition is a unregistered will and the same was not probated and so this petition is liable to be dismissed.

4. Heard both side and perused entire records.

5. Now, the point to be determined is whether this petition is liable to allow or not?

6. The petitioners are 2<sup>nd</sup> and 4<sup>th</sup> defendant are the main suit the respondent is the plaintiff filed the suit for the relief of bare injunction.

7. Now, the case is at the stage of adducing evidence on the side of 2<sup>nd</sup> and 4<sup>th</sup> defendant. The reason adduced by the petitioners for not producing petition mentioned documents along with their written statement is that this documents were already filed in the connected suit O.S.No.3/2017. The objection raised by the respondent is that these documents are forced one and not relevant to the facts of the present case.

8. The relevancy and proof of the petition mentioned documents can be decided after full trial and it cannot be decided at this stage. Further, the burden is upon the petitioner regarding the proof of will and the same will also be decided of the full trial.

9. It is the duty of the court to provide sufficient fair opportunity to the parties to the suit and therefore denying to receive petition mentioned document would deny the opportunity for the petitioner to establish their I.A.No.6/2024 in O.S.No.221/2016

case. Hence, this court is inclined to receive the documents mentioned in the petition and delay in filing those documents is condoned.

In the result, this petition is allowed. No cost.

This order is dictated to Steno Typist and typed by him, corrected and pronounced by me in open court, this the 29<sup>th</sup> day of July 2024.

District Munsif  
Melur.

List of Witnessess on the side of petitioner : Nil  
List of Documents on the side of Petitioner: Nil  
List of Witness on the side of respondent : Nil  
List of Documents on the side of Respondent: Nil

District Munsif  
Melur.

I.A.No.6/2024  
in  
O.S.No.221/2016  
Fair/Draft Order ,  
Date: 29.07.2024