

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Monday, the 7th day of April 2025

I.A.No.5/2025

in

O.S.No.26/2019

1. V. Muthukaruppan (died)
2. M. Boomiraj
3. M. Asaithambi
4. R. Meenal
5. R. Sangeetha
6. M. Meenakshi
7. M. Aananthammal

..... Petitioners/ 2nd to 5th defendants

// Vs //

1. M. Periyathambi (died)
2. Mariammal
3. Valli
4. Radhakrishnan
5. Muthukili
6. Jegatha
7. Devi

..... Respondents/Plaintiffs

This petition coming up for final hearing before me on 02.04.2025 in the presence of Advocate.Thiru.S.Manimaran, Advocate for the Petitioners and Advocate.Thiru.K.R.Sudharshan Prabhu, advocate for respondents and upon hearing enquiry on both sides and on perusal of the records and having stood over for consideration till this day, this court delivers the following:-

ORDER

This petition has been filed Under Section 151 of CPC pass an order to reopen the case on the defendant side evidence of this petition.

1. Brief averments of the petition :-

The 4th petitioner herein is the 4th defendant of the suit. The 5th petitioner is the daughter of the 4th petitioner. The original suit has been filed by the plaintiffs for the relief of partition and allot 1/4 share to the plaintiffs and declared the registered dhana settlement deed executed by the defendant in favour of Meena and Sangeetha, bearing Document No.708/2010 dated 25.03.2010 affecting a part of the joint family properties and null and void and declare the registered dhana settlement deed executed by the defendant in favour of Meena and Sangitha, bearing Document No.707/2010 dated 25.03.2010 affecting a part of the joint family properties as null and void and declared the registered will executed by the 1st defendant infavour of 2nd and 3rd defendants dated on 30.06.2010 as null and void. It was revealed that the individuals who had witnessed the signatures on the Dhana Settlement documents were not proven by the Dhana Settlement documents. This petition has been filed by the petitioner to reopen the case on the defendants side evidence. Hence this petition has to be allowed.

2. Brief averments of the counter affidavit filed by the 4th respondent/plaintiff :-

(I) All the averments in the petition except admitted are denied. This petition is not maintainable in law and on facts. The 4th respondent herein is the 4th plaintiff in the main suit. The 4th respondent deceased father filed the above suit seeking division of the suit properties and

allot $\frac{1}{4}$ such shares to his part and put him into possession by passing a preliminary decree and a consequential final decree and for the declaration of the Registered Dhana Settlement deeds executed by the 1st defendant in favour of 4th and 5th defendants, as null and void and also for declaration of the registered will executed by the 1st defendant in favour of the 2nd and 3rd defendants dated on 30.06.2010 as null and void. The present petition is filed by the petitioners to reopen the defense evidence that was closed on 21.08.2024. From 21.08.2024 onwards to till date, the suit is posted for arguments of both the parties. As such being the status of case, the filing of petition to reopen the defense evidence is only intended to protect the final outcome of the case which is only a dilatory tactics of the petitioners.

(ii) This suit was launched in the year 2011. The petitioners / defendants actively participated in the proceedings with full knowledge from the beginning onwards and they laid their evidence from 13.10.2022 to 12.08.2024. The petitioners/ defendants presumed to have ample knowledge about their case as soon as they file their written statement and they too have knowledge about the scope of their case and evidence even at the pre-trial stage itself. The 4th Petitioner, being his wife has not come forward to live together for the past 27 years and deserted his life to a maximum extent but she is very much avaricious to engulf our share in the properties in an illegal manner by influencing the elderly members, which clearly establishes her malafide intention to deprive our rights. The deposition of DW1 emphatically establishes the above facts. The properties are basically being the ancestral properties, no one have exclusive power to transfer the undefined rights. Facts

being so the Dhana Settlement deeds executed by the grandfather has no legal sanctity. Hence this petition has to be dismissed with costs.

3. Now the point that arises for consideration is :-

Whether the petition is to be allowed or not ?

4. Point :-

Both sides heard. Records perused. This petition has been filed by the petitioner to reopen the case on the defendant side evidence. In order to establish the case of the petitioner/defendant to prove and substantiate his case, this court inclines to pass an order in favour of the petitioner.

5. Result:-

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

Dictated to the Steno-typist, directly typed by her in computer, corrected and pronounced by me in open court this 7th day of April 2025.

**Sub Judge,
Melur.**

Both sides of witness and documents : Nil

**Sub Judge,
Melur.**

**Draft/Fair Order
in
IA.No.5/2024
in
O.S.No.26/2019
Dt : 07.04.2025
Sub Court, Melur**