

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
PERAMBALUR.

Present: Tmt.A.Balkis, B.L.,
Principal District Judge.

Thursday, the 25th day of August, 2022.

I.A.No.2/2022
in
O.S.No.2/2015

Jeena, 63/22,
W/o. Ramaraj,
Elambalur Road,
Perambalur Taluk and District.

--- Petitioner/2nd Defendant.

-Vs-

Manimegalai, 65/22,
W/o. Raj,
Elambalaur Road,
Perambalur Taluk and District.

--- Respondent/Plaintiff.

This petition is coming up before me for final hearing in the presence of Thiruvalargal. D.Johnkennadi and P. Elamaiselvan, Advocates for the petitioner and Thiru.G. Subramaniam, Advocate for the respondent and upon perusing the petition, counter and other relevant records and upon hearing both sides, this Court has passed the following:

ORDER

This petition is filed under Order 18 Rule 17 of Code of Civil Procedure to re-open the case for the purpose of recalling Pw1 for further cross examination.

2. The brief averments made in the petition are as follows:-

The case of the petitioner/2nd defendant is that the respondent/plaintiff has filed the suit for partition and that the petitioner has filed written statement and the

respondent/plaintiff has filed a memo stating that she has filed transfer O.P. petition before the District Court to transfer the suit in O.S.No.639/2014 on the file of District Munsif Court, Perambalur to try along with the suit in O.S.No.2/2015 on the file of Mahila Court, Perambalur hence the cross examination of Pw1 was stopped at this stage and thereafter the plaintiff side evidence was closed and the case was transferred to this Court and the case was posted for defendant's side evidence. When the evidence of plaintiff is incomplete, the defendant cannot give evidence. Hence the petitioner prays for re-opening the plaintiff side evidence and to re-call Pw1 for further cross examination. If the petition is not allowed, she will be put to irreparable loss and hardship. Hence it is necessary to re-open the case for the purpose of recalling Pw1 for further cross examination.

3. The brief averments made in the counter filed by the respondent/plaintiff is as follows:-

All the allegations stated in the affidavit and petition are specifically and emphatically denied as false, frivolous and vexatious except those that are specifically admitted herein as true and the petitioner is put to strict proof of remaining allegations. The petitioner has filed this petition with false allegations and this petition is filed only to harass this respondent who is oldage and dragging the case to years together. There is no merits in the petition. Hence the petition may be dismissed with cost of this respondent.

4. Point for consideration is:

Whether the I.A.No.2/2022 has to be allowed or not?

Point:-

5. This petition is filed to re-open the case posted for the defendant side evidence so as to enable the petitioner for further cross examination of Pw1.

6. According to the petitioner/2nd defendant, the connected suit in

O.S.No.639/2014 was pending before the District Munsif Court, Perambalur and the respondent/plaintiff has filed a memo stating that the said case has also to be tried along with the present suit and thereby cross examination of Pw1 was stopped by the respondent/plaintiff and thereafter the cross examination of Pw1 was closed. Now the suit in O.S.No.02/2015 is transferred to this Court therefore, the petitioner seeks to re-open the case for the purpose of recalling Pw1 for further cross examination. The perusal of notes paper shows that the Pw1 was cross examined in part and the cross examination was closed as the Pw1 was not cross examined by the defendant's side in spite of opportunities given. However, transfer O.P. has been filed to transfer the suit in O.S.No.639/2014 to this Court and the said suit is now transferred to this Court and re-numbered as O.S.No.30/2022. The suit is for partition and with a view to give an opportunity to the petitioner/2nd defendant to cross examine the witnesses in full and this Court is of the view that this petition can be allowed. Further no prejudice will be caused to the respondent in allowing this petition. Hence this petition is allowed and answered the point accordingly.

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

Dictated to the Executive Assistant, transcribed by her, corrected and pronounced by me in open Court, this the 25th day of August, 2022.

(Sd/-). A. Balkis,
Principal District Judge,
Perambalur.

Fair/Draft Order
I.A.No.02/2022
in
O.S.No.2/2015
D.D:25.08.2022.