

I.A.No.13/2024
in
O.S.No.6/2018

D.D.19.12.2024:

Order Pronounced.

This application is filed by the petitioner/4th defendant to set aside the exparte order passed against her and to permit her to lead evidence.

2. According to the petitioner/4th defendant, on 16.08.2023 when the suit was taken up for trial, she was not able to appear before the Court for cross examination of Pw1 and she was set exparte and thereby now she has come forward with this application to set aside the exparte order. The suit is in the stage of arguments and at this juncture, the present application has been filed.

3. The respondent contended that the petitioner herein is the mother of the plaintiff and she knows the proceedings of the case and she is assisting her daughter in conducting the case and thereby the averment that she could not participate due to her ill is

need not be accepted and this petition has to be dismissed.

4. The 4th defendant has been impleaded as the legal heir of the deceased Jayaprakash who was arrayed as 2nd defendant in the suit. However the 2nd defendant Jayaprakash had denied the fact that the plaintiff is not his daughter born to him.

5. According to the averments in the written statement filed by the 2nd defendant that he married to one Shanthi and they lived together for 3 months and thereafter she part away and he adopted the customary mode of divorce and thereafter he married another woman namely Parimala and through him he begotten three children. But those children were not added to the present suit.

6. However the 2nd defendant had denied the paternity of the plaintiff and the 4th defendant being the mother of the plaintiff should be given an opportunity to put forth her contention as to the fact that the

plaintiff is the legal heir of the 2nd defendant. Therefore, this Court is of the considered opinion that with a view to give an opportunity to the petitioner to contest the case on merits, this petition can be allowed.

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

Principal District Judge,
Perambalur.

