

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
PERAMBALUR.

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

Thursday, this the 5th day of September, 2024.

I.A.No.11/2024
in
O.S.No.33/2021

Sumsulhutha Begum, 60/24,
D/o. Abdhulmuthaleep, W/o.Abdhul Ajis,
V.Kalathur Village, Veppanthattai Taluk,
Perambalur District.

... Petitioner/12th Defendant.

-Vs-

1. Habeeburrahman,
S/o. Abdhul Muthaleep.

... Respondent/Plaintiff.

2. Habeebunisha,
W/o. Abdhul Muthaleep.

3. Jahir Hussain,
S/o. Abdhul Muthaleep.

4. Hayath Basha,
S/o. Abdhul Muthaleep.

5. Umar Farook,
S/o. Abdhul Muthaleep.

6. Hyrunnisha Begum,
W/o. Mohamed Thariq.

7. Najirunnisha Begum,
W/o. Liyakath Ali.

8. Noorul Hitha Begum,
W/o. Najim Basha.

9. Hurshith Begum,
W/o. Sardhar Basha.

10. Fathima Bibi,
W/o. Ashraf Ali.

11. Parkathunnisha,
W/o. Vahith Basha.

12. Mahaboobunisha,
W/o. Ali Raja.
All are residing at
V.Kalathur Village, Veppanthattai Taluk,
Perambalur District.

... Respondents/1 to 11
defendants.

This petition is coming before me for final hearing in the presence of Thiru.G. Subramaniyan, Advocate for the petitioner/12th defendant and Thiru.K.Ranjithraja, Advocate for the 1st respondent/plaintiff and Thiruvalargal.G.Babu, R.Sudhagar, R.Geerthana Priyadharshini and R.Jayasri Ananthi, Advocates for the 4th respondent/plaintiff and Thiru.G.Iruthayasamy, Advocate for the 2nd, 3rd and 5th to 12th respondents/defendants, upon perusing the evidence and documents and after hearing both side and having stood over for consideration till this date, this Court has delivered the following:

ORDER

This petition is filed under Order 8 Rule 3(A) of CPC to condone the delay in filing the documents and to receive the same as 12th defendant's side documents.

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

The contention of the petitioner/12th defendant is that the 1st respondent/plaintiff has filed the suit for partition claiming 2/16th share in the suit

schedule properties and to declare the partition deed, dated 03.10.2007 is null and void. The petitioner/12th defendant have a right in 7/128th share in the suit properties and other properties. Further she has also filed a counter claim. This Court has directed the 1st respondent to be examined by the Advocate Commissioner and hence, enquiry has been conducted immediately. The documents filed with this petition to be marked as exhibits for her side as the said case is being enquired on her side. Since the documents were obtained from the authorities only at the later point of time and thereby she was not able to file the documents along with written statement. Hence, she has filed this petition to condone the delay in filing the documents and to receive the same. Hence this petition.

3. The brief averments made in the objection filed by the 4th respondent/2nd defendant is as follows:-

The 4th respondent/2nd defendant counsel stated that the petition is not sustainable in law and on facts and he specifically denies all the allegations in the petition except those that are specifically admitted herein. The documents filed by the petitioner was not relevant to this case. The petitioner hides various documents and trying to divert the case by filing only these documents. If she really intended to file the documents, she would have filed them at the time of filing written statement. Further the documents are prepared forgedly by the petitioner and therefore, the said documents are not acceptable one. Hence, this petition is liable to be dismissed with cost of this respondent.

4. Point for consideration :

Whether the I.A.No.11/2024 has to be allowed or not?

Point:

5. This application is filed to receive the documents on behalf of the petitioner/12th defendant. The Advocate Commissioner was appointed to examine

the witness on behalf of the petitioner/12th defendant and now the petitioner has come forward with this application to condone the delay in filing the documents and to receive the same.

6. The reason alleged by the petitioner for not filing the documents along with written statement is that some of the documents were obtained only at the later point of time and thereby she was not able to file all the documents along with written statement. The documents filed by the petitioner for reception are death certificate, legal heir certificate and registered documents and FIR. The documents sought to be received by the petitioner/12th defendant are obtainable only from the authorities thereby the reason alleged by the petitioner/12th defendant for not filing the documents along with written statement is sustainable and this Court considers that these documents can be received by this Court. However, while marking the documents the advocate commissioner shall mark the documents subject to the proof and relevancy of the documents for the evidence let in while recording evidence and with this observation, this petition is allowed.

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

Dictated to the Executive Assistant, transcribed and typed by her through computer, corrected and pronounced by me in open Court, this the 5th day of September, 2024.

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

PDJ Court,
Perambalur.

Fair/Draft Order
I.A.No.11/2024
in
O.S.No.33/2021
D.D: 05.09.2024.