

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,
ADDITIONAL DISTRICT COURT, SIVAGANGAI.**

**Present: Tmt.R.Sathiathara,M.A.,M.L.,
Additional District Judge,
Additional District Court,
Sivagangai.**

Dated Friday, the 9th day of February 2024.

2055 Thiruvalluvarandu Sobakrith on Friday 26th day of Thai Thingal

I.A.No.13/2023

in

OS.No.40/2013

Chandran ... Petitioner / Plaintiff

//Vs//

1. Singaram

2. Yegappan

3. Jeyachitra

4. V.D.Vallikannu

5. T.Sekar

6. J.Karthik

7. SR.Gomathi

8. Suba Meenal

9. Karpagavalli ... Respondents / Defendants

This Petition is coming on 05.02.2024 before me in the presence of Thiru.M.Mohanasundaram, counsel for the petitioner and Thiru.G.Muthupandian counsel for R1 and Thiru.K.Alagappan, counsel for R2,R3 and Thiru.K.Periyasamy, counsel for R4 to R9 and on perusal of records and documents and on considering the evidence, this court delivered the following:

ORDER

Petition filed under section 151 of CPC to reopen the case posted for argument for marking inam settlement deed in respect of 2nd item in “B” schedule property executed by 1st defendant in favour of plaintiff, joint patta for 1st item in “A” schedule property in the name of 1st defendant and his brother Subramanian, document for opening for locker 47 jointly 1st and 2nd defendant, signature in ledger for opening locker 47, house warming ceremony of 1st item in the schedule by 1st defendant Singaram chettiar in the year 1993, marriage album of 2nd defendant and plaintiff held in 1st item in “B” schedule performed by 1st defendant Singaram.

The averments in the affidavit in brief is as follows:

2) The petitioner is plaintiff in the suit posted for argument. The plaintiff sought for reopen the case for marking the documents inam settlement deed in respect of 2nd item in “B” schedule property executed by 1st defendant in favour of plaintiff, joint patta for 1st item in “A” schedule property in the name of 1st defendant and his brother Subramanian, document for opening for locker 47 jointly 1st and 2nd defendant, signature in ledger for opening locker 47, house warming ceremony of 1st item in the schedule by 1st defendant Singaram chettiar in the year 1993, marriage album of 2nd defendant and plaintiff held in 1st item in “B” schedule performed by 1st defendant Singaram.

The averments in the counter filed by the 2nd and 3rd respondents adopted by 4th to 9th respondents:-

3) The petition is not maintainable. This petition filed belatedly after evidence closed on both side to drag on the case. There is no averment about this documents in plaint and in proof affidavit. There is no necessity to receive those documents. The petitioner not mentioned how he will be affected if those documents are not received. The 2nd item in “B” schedule is the self acquired property of petitioners mother and she executed Will dated 24.01.2007. The inam settlement deed executed by 1st defendant on 29.05.2013 in respect of 2nd item in “B” schedule in favour of plaintiff is invalid. The original of that deed is not filed and certified copy filed is not acceptable. The plaintiff claimed 1/3 share in the “B” schedule common property. In contrary also filed inam settlement deed executed and seeking permission to receive the inam settlement deed. In the written statement it is specifically stated that, joint pattatharars noted in joint patta in respect of 1st item in “A” schedule property were not impleaded and so the joint patta filed is not acceptable in law. Further the documents relating to opening of locker 47, house warming ceremony and marriage were questioned in cross examination itself but those documents filed belatedly is not legal. This respondent went to bank and signed separately and his father did not accompany him. There is no explanation how plaintiff received document relating to locker. Without these additional documents the issues framed can be adjudicated. The suit is filed 10 years back and this petition filed belatedly to drag on the case to be dismissed with cost failing which this respondents will be put to heavy loss and hardship.

4. Point to be decided:

Whether petition to be allowed to reopen the case posted for argument in filing inam settlement deed in respect of 2nd item in “B” schedule executed by 1st defendant in favour of plaintiff, joint patta for 1st item in “A” schedule property in the name of 1st defendant and his brother Subramanian, document for opening for locker 47 jointly 1st and 2nd defendant, signature in ledger for opening locker 47, house warming ceremony of 1st item in the schedule by 1st defendant Singaram chettiar in the year 1993, marriage album of 2nd defendant and plaintiff held in 1st item in “B” schedule performed by 1st defendant Singaram as prayed for?

5. On the side of petitioner and respondents no oral and documentary evidence adduced.

Points for consideration:

6. The petitioner is plaintiff in the suit posted for argument. The plaintiff sought for reopen the case for marking the documents inam settlement deed in respect of 2nd item in “B” schedule executed by 1st defendant in favour of plaintiff, joint patta for 1st item in “A” schedule property in the name of 1st defendant and his brother Subramanian, document for opening for locker 47 jointly 1st and 2nd defendant, signature in ledger for opening locker 47, house warming ceremony of 1st item in the schedule by 1st defendant Singaram chettiar in the year 1993, marriage album of 2nd defendant and plaintiff held in 1st item in “B” schedule performed by 1st defendant Singaram. The respondents admit that he had cross examined plaintiff with regard to locker and marriage held in 1st item in “B” schedule property. Further inam settlement deed dated 29.05.2013 is a registered document. Further joint patta

already issued by revenue authorities for 1st item in “A” schedule property in the name of 1st defendant and his brother Subramaniam chettiar. Since suit is filed for partition and for permanent injunction to have a complete adjudication in respect of the matter in dispute between the parties and as suit filed in the year 2013 and already defendant cross examined PW1 with regard to these additional documents for opening for locker 47 jointly 1st and 2nd defendant, signature in ledger for opening locker 47, house warming ceremony of 1st item in the schedule by 1st defendant Singaram chettiar in the year 1993, marriage album of 2nd defendant and plaintiff held in 1st item in “B” schedule performed by 1st defendant Singaram and as defendants will not be prejudiced in any way and in the interest of justice to avoid further dragging on proceedings, I answer the point in favour of the petitioner.

In the result, petition allowed. No cost.

Dictated by me to the typist and typed and computerized by him, in my presence and corrected and pronounced by me in open court, this the 09th day of February 2024.

**Additional District Judge,
Sivagangai.**

List of witness and documents on the side of the petitioner and respondents: Nil

**Additional District Judge,
Sivagangai.**