

IN THE COURT OF IVth ADDITIONAL DISTRICT COURT, UDUMALPET.

PRESENT: Thiru.C.Rajalingom, B.A., B.L.,

IVth Additional District Judge, Udumalpet.

Wednesday, the 20th day of November, 2024

IA.No. 1 of 2022 in O.S.No. 48 of 2017

R.Yasodai Ramalingam

... Petitioner/1st Defendant

Vs.

1. A.Rajamani,
2. Mu.Kannappan

... Respondents /Plaintiffs

This Petition came before me for final hearing on 12.11.2024 in the presence of Thiru.C.Prem Kumar, Advocate for the Petitioner/1st Defendant and Thiru.V.Muthukumar, Advocate for the Respondents/Plaintiffs and having heard 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 filed by the petitioner under order 6 Rule 14(A) of the Code of Civil Procedure seeking for an order of stay of the suit until further orders.

2. Brief averments in the petition:-

The Respondent/plaintiff filed the main suit based on the mortgage debt against this petitioner/ 1st defendant for recovery of Rs.11,05,917/- with subsequent interest and cost. The applicant herein is the 1st defendant in the suit. The address for service of the 2nd defendant given is false. The 2nd defendant is actually and permanently residing at 2/499 Aavarankattuthotam, Senjeriputthur (PO) Sulur Tk, Coimbatore District, 641 671 with effect from 08.05.2016 and the above fact is well known to the plaintiff at least from 23.06.2014 the date of

void sale deed executed by Malathi, D/o.Marappa Gounder in favour of the 1st plaintiff. But with ulterior motive and design the false address is given in the plaint. Furnishing false address is in violation of order VI Rule 14-A the code of Civil procedure, 1908. The suit cannot be allowed to proceed until the true and correct address is substituted for the false address given and under the facts and circumstances of the case stated that to stay the suit until further orders.

Brief averments in the counter filed by the 1st respondent/ 1st plaintiff:-

The petition is not maintainable either in law and facts. In order to protract the **proceedings** this petition has been filed without any merits. The suit has been filed by the plaintiff based on the mortgage debt dated 17.03.2016. K.R.Dinesh who is the son of 1st respondent. The reason for the petition was imaginary and address for service of 2nd respondent is correct. It is the marital home of 2nd respondent, then only it was duly served. Hence the petition is not maintainable. Hence this petition has to be dismissed.

Submissions on both sides:-

The petitioner would contended that, as per order 6 Rule 14 (A) of Code of Civil Procedure categorically stated that if the person has filed a suit by furnishing false address. The suit has to be stayed. The plaintiff also willfully mentioned false address of the 2nd respondent. Hence this petition has to be allowed. On the other hand the respondent would content that in a plaint the address for service of the 2nd defendant was correctly mentioned. The 2nd respondent is residing in the same address and in the settlement deed dated 23.06.2014 executed by the 1st respondent with her husband in favour of their son K.R.Dinesh the same address was mentioned. Hence the petition has to be dismissed.

4. Discussion on the point:-

Upon considering the submissions on either sides, the first and foremost contention of the petitioner is that the address for service of the 2nd respondent is false. The sale deed dated 23.08.2016 executed by 2nd defendant infavour of the 1st plaintiff, the address for service of D2 an under “ கோயம்புத்தூர் மாவட்டம், சூலூர் வட்டம், செஞ்சேரிப்புத்தூர் அஞ்சல், ஆவாரங்காட்டுதோட்டம் என்ற முகவரியில் வசித்து வரும் லேட்.K.R.தினேஷ் அவர்கள் மனைவி D.மாலதி". But the respondent side would contend that the 2nd respondent is residing with D1 the marital home, then only the court summon duly served in the said address. In this aspect the address for service of the 2nd respondent in the plaint as under “Malathi, W/o. Late K.R.Dhinesh, aged 35 years, Door No.36, Ramalinga Nagar, Udumalpet 642 126. The contention of the respondent is that the same address was mentioned in the settlement deed, dated 23.06.2014 executed by the 1st respondent and her husband to the 2nd respondent's husband K.R.Dinesh. The settlement deed dated 23.06.2014 also produced on the side of the respondent. In the document the address for service was mentioned as under....."திருப்பூர் மாவட்டம், உடுமலைப்பேட்டை வட்டம், உடுமலைப்பேட்டை முனிசிபல் டவுன், யசோதா ராமலிங்கம் நகர், 36 நெ. இல்லத்தில் வசிக்கும் லேட்.M.A.கந்தசாமிக்கவுண்டர் அவர்கள் குமாரர் அட்வகேட்.K.ராமலிங்க கவுண்டர்1, (வாக்காளர் அடையாள அட்டை எண்.CCN1213149) (கைபேசி எண்.9488827000) ஷெயூர் ஷெ 1 லக்கமிக்க அட்வகேட்.K.ராமலிங்க கவுண்டர் அவர்கள் மனைவி R.யசோதா ராமலிங்கம் -2 (வாக்காளர் அடையாள அட்டை எண்.CCN1213156) (கைபேசி எண்.9943053663) ஆகிய நாங்கள் இருவரும் சேர்ந்து எழுதிக் கொடுத்த செட்டில்மெண்ட் ஆவணம்."

4.1) Apart from that the extract of marriage register of the 1st respondent's son K.R.Dinesh would show that the address for service was mentioned as

No.36, Ramalinga Nagar, Udmalpettai. The copy of ration card and the copy of death certificate of K.R.Dinesh son of 1st respondent was mentioned as Door No.36, Ramalinga Nagar. From the available documents the above said address is the 2nd respondent's marital home. Hence, it will not be considered that this address is the false address. Hence, it will not covered under the preview of order 6 rule 14(A) of the Code of Civil procedure

4.2) The available materials on record would show that there is no merits available in the petition. Hence, the petition deserves for dismissed.

Result:-

This petition is dismissed with costs.

Dictated by me to the Steno-Typist, transcribed in Short-hand, computerized by her and corrected by me and pronounced in the Open Court on this the 20th day of November, 2024.

IVth Additional District Judge,
Udumalpet.

Petitioner side Exhibits :

Ex.P1	23.08.2016	Copy of the sale deed executed by D2 infavour of 1 st plaintiff
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Respondent side Exhibits:-

1.	29.04.2015	Certified copy of Marriage Registration of 2 nd defendant
2.	23.06.2014	Certifid copy of Settlement deed by K.Ramalingam and Yasotha Ramalingam to K.R.Dinesh
3.	-	Certified copy of Ration card of K.R.Dinesh
4.	13.06.2016	Certified copy of Death certificate of K.R.Dinesh
5.	07.02.2017	Certified copy of Legal heirship certificate of K.R.Dinesh

6.	-	Certified copy of plaint in O.S.No.238/2016 of this Hon'ble Court.
7.	-	Aadhaar card Notarised
8.	-	Driving License Notarised

IVth Additional District Judge,
Udumalpet.

Fair/ Final Order
IA No.1/2022 in
O.S.No.48/2017
D.D: 20.11.2024
IVth ADJ Udumalpet