

IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF AT VALLIYOOR

PRESENT: THIRU J. ANNS RAJA B.A., B.L.,
ADDITIONAL DISTRICT MUNSIF (FAC),
VALLIYOOR.

Thursday, the 22nd day of August 2024

திருவள்ளூர் ஆண்டு 2055, குரோதி வருடம் ஆவணி மாதம் 06-ம் நாள் வியாழக்கிழமை

IA No.07 /2024 in O.S.No.209/2015

Sanjaykumar through his

Power Agent V.Jeyakumar

... Petitioner / Plaintiff

/Vs/

1) Arulmighu Subramaniaswamy Koil

Vallioor, through its

Executive Officer

2) State of Tamil Nadu through its

District Collector,

Tirunelveli

3) The Tahsildar

Radhapuram

4) Commissioner

H.R&C.E. Department, Chennai.

... Respondents / Defendants

This petition coming up before me for final hearing on 08.08.2024 in the presence of Thiru.E.Seenivasan learned counsel for the petitioner, Thiru. A.S.Gnanasekar learned counsel for the 1st respondent, Thiru. V.Muthu Krishnan

Government pleader for the 2,3 respondents and 4th respondent set exparte, this Court upon perusal and consideration of oral arguments and the case records and having stood over-under consideration till this date, this Court delivered the following

ORDER

This petition has been filed by the petitioner under Order 7 Rule 14(3) of 151 C.P.C, to receive the documents.

1) Brief averments of the Petition :

The petitioner filed the above suit for declaration and permanent injunction. Petitioner has filed the petition for petitioner son Sanjaykumar as a Power Agent of him and petitioner also the plaintiff in the original suit number 210/2015. The Hon'ble court already passed an order for joint trial. Accordingly the evidence was taken and now further evidence is to be let in.

The case of the 1st defendant is that the plaint schedule property not in possession and enjoyment of us. Petitioner has produced registered documents. On the other hand the 1st defendant states that the patta was issued in the name of 1st defendant temple. But actual physical possession is with us.

In order to substantiate the fact that, we are in possession, we traced some old documents from the old wooden box. Now only petitioner has find it. The deeds are original and it will speak the truth that the schedule property were under peaceful

possession and enjoyment of petitioner predecessor in title. The documents which are stated in the petition will assist the court to find out who are in possession and enjoyment of the property. The documents are highly necessary. As the counsel for the 1st defendant raised a question matter touching with possession, so petitioner traced the petition mentioned documents. The non presenting of the documents prior to opening of the case is not wanton. The necessity arose only after completion of cross examination by the defendant No.1 Hence the produce the documents. Therefore, this petition is filed.

2. **Brief averments of the counter statement filed by the 1st respondent adoption by 2,3 respondents:**

The petition is not maintainable in law and facts. The suit has been filed in the year 2015 and the suit is pending for more than 9 years. The plaintiff has been examined on 14.09.2023 and this case is part heard for more than 1 ½ years. The petition is filing interim application continuously after the suit was posted in the list. I.A.No.01/2020 was filed to implead 4th defendant, I.A.03/2021, IA.No.04/2022, IA.No.5/2022, IA.No.6/2022 and now again I.A.No.07/2024 has been filed to receive documents as a second time.

All the allegations in para 4 and 5 of the affidavit are all false. It is false to state that the petitioner fraced out the documents in the old wodden box now only and the documents are necessary to prove the possession in the schedule property. The

petitioner has not stated why he has not filed this document before for the past 9 years. Already the petitioner has filed I.A.08/2021 to receive documents. The petitioner has not pleaded anything in his plaint regarding this new documents now proceeded after 9 years which is highly belated.

It is stated law that without pleadings no evidence can be let in any no evidence can be considered. This is the 2nd application to receive the documents. To fill up the lacuna in the evidence such documents cannot be received after pw1 has been fully examined in cross. The petitioner has not stated anything in his affidavit why these documents were not filed before examination of Pw1. This petition is highly belated and it cannot be received to fill up the lacuna in the plaintiff evidence.

Whether the petition is to be allowed or not?

3. On considering both sides pleadings, it is founded that suit has filed for declaration and Permanent Injunction. Considering this, the petitioner must be given an opportunity to prove his case before this court. Hence, on marking the petition mentioned documents will not cause any prejudice to respondent. The Respondent has opportunity to cross examine and disprove the case. Hence, in the interest of justice, the petition deserves to be allowed.

In the result this petition is allowed. No costs.

This Order dictated to the Steno-Typist, directly typed in computer by her, corrected and pronounced by me in open Court, on 22nd day of August 2024.

Additional District Munsif,
Valliyoar.

Witnesses examined on the side of petitioner and respondent : Nil

List of Documents on the side of the petitioner and respondent : Nil

Additional District Munsif,
Valliyoar.

Additional District Munsif Court,
Valliyoor

I.A.No.07/2024 in
O.S.No.209/2015

Draft/Fair Order

Dated: 22.08.2024