

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Saturday, the 4th day of March 2023

I.A.No.5/2022

in

O.S.No.46/2019

1. D. Saravanan
2. Sasikala
3. Padmini
4. Devika

...Petitioners/plaintiffs

-Vs -

1. D. Neelatharan
2. D. Sarojammal (Died)
3. Dilli

...Respondents/Defendants 1 and 3

This petition came up for hearing on 17.02.2023, in the presence of Mr. R. Krishnaswamy, learned counsels for the petitioners/plaintiffs and Mr. S. Yuvaraj, learned counsel for the 1 to 4th respondents/defendants and upon hearing the arguments on the side of the petitioners and on perusal of the material case records and having stood over for consideration before this court till this day, this court delivers the following

ORDER

This petition has been filed under Order VII Rule 14(3) r/w. Sec.151 of CPC to grant leave to file the document mentioned in the petition.

2. The averments of the affidavit filed by the petitioner are as follows:

The petitioners who are the plaintiff in the suit submit that the suit has been filed against the defendants praying for the relief of declaration that the settlement deed dated 10.02.2005 executed by the 2nd defendant in favour of the 1st defendant as null and void and also for other reliefs.

The petitioners further submit that Item No.1 of the suit property stands in the name one Duraiswamy Mudaliar and when petitioner tried to mark the Adangal issued by the concerned village administrative officer for the said property, they were not allowed to mark the same as it was issued by the Village Administrative Officer. Now, the petitioner have obtained the patta for the said property, since the original patta was with his elder brother, the 1st defendant, there is delay caused in obtaining the patta from the Revenue Department. If the delay is not condoned the petitioners would be put to loss and hardship. Hence, the petition.

3. The averments of the counter filed by the 1st respondent are as follows:

The 1st respondent submits that the cause for delay as mentioned in the affidavit of the petitioner is an imaginary story and this petition has been filed only to drag on the suit proceedings. Hence, this petition is liable to be dismissed.

4. Since the 3rd respondent was already set exparte in the main suit. Notice to him in this petition was dispensed with.

5. Neither the petitioners nor the respondents have placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

6. Heard petitioners side arguments. Despite providing sufficient opportunities, the 1st respondent has failed to submit his arguments. Hence, the arguments on the side of the respondent was suo motto closed and the petition is decided on merits based on the material case records.

7. On careful analysis of the case records, it is noted that the petitioners are the plaintiffs in the suit and the suit has been filed by the petitioners/plaintiffs against the respondents herein for a relief of declaration and for permanent injunction. When the suit is pending for plaintiffs' side evidence, this petition has been filed to grant leave

to file the document mentioned in the petition stating that the said document was obtained recently and that it is vital to prove their case. On the other hand, the respondent objected to allow this petition stating that the document enclosed along with this petition is not maintainable and that this petition has been filed only to drag on the suit proceedings. The relevancy or the admissibility of the document cannot be decided at this stage as it requires detailed evaluation of evidence. It is pertinent to view that if this application is allowed the respondents would have an opportunity for cross examination and to test the veracity of the evidence placed by the petitioners. Considering the above aspects and in the interest to meet the ends of justice this court is inclined to allow this petition whereby no prejudice would be caused to the respondents. Moreover, the marking of the said document is subject to the proof of its admissibility and its relevancy to the case.

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

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 4th day of March 2023.

S.d./-V.VANNAMALAR
DISTRICT MUNSIF
PONNERI

Petitioners' side witnesses:-

NIL

Respondents' side witnesses:-

NIL

Petitioners' side exhibits:-

NIL

Respondents' side exhibits:-

NIL

S.d./-V.VANNAMALAR
DISTRICT MUNSIF
PONNERI

Fair/ Draft Order
I.A.No.5/2022
O.S.No.46/2019
Date:04.03.2023
DMC,PNI.