

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

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

Monday, the 15th day of April 2024

I.A.No.3/2023
in
O.S.No.77/2009

S.Padmanaban

.....Petitioner/plaintiff

-Vs -

1. A.Kothandan
2. A.Sigamani
3. R.Ekambara Gramani
4. V.Periyasamy
5. V.Gnanasekar

.....Respondents/defendants

This petition came up for hearing on 15.04.2024, in the presence of Mr.R.Kalamegam, learned counsel for the petitioner/plaintiff and Mr.T.Susairaj, learned counsel for the respondents/defendants 1 and 2. The 3rd respondent was set exparte in the suit and hence notice to him in this petition is dispensed with. The 4th and the 5th respondents have failed to file their counter in this petition and hence they were set exparte. Upon hearing the arguments of both sides 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 by the petitioner under Order VII Rule 14(3) of CPC to condone the delay in filing the documents listed out in the petition and to permit the petitioner/plaintiff to mark the same.

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

The petitioner is the plaintiff in the suit and the suit has been filed by the petitioner for a relief of declaration and permanent injunction as against the respondents/defendants. The petitioner states that the documents mentioned in the petition were not filed along with plaint as they were not readily available at the time of filing of the above suit. The certified copy of the document No.3 has been obtained only recently from the S.R.O. at Arani and the other documents were also traced by the petitioner only recently. The documents submitted are vital to prove the case of the petitioner. The delay in submitting the documents is neither willful nor wanton. If the delay is not condoned, the petitioner would be put to irreparable loss and much hardship. Hence, this petition.

3. Brief averments of the counter filed by the 2nd respondent and adopted by the 1st Respondent are as follows:

The respondent submits that the suit is of the year 2009 and after a lapse of more than twelve years the petitioner is trying to file the documents and seeking to condone the delay in filing the said documents. The reasons for the delay as stated by the petitioner is not bonafide. Further in the pleadings nothing has been mentioned about the documents. Hence the application is devoid of merits and is liable to be dismissed.

4. The 3rd respondent was set exparte in the suit and hence notice to him in this petition is dispensed with. The 4th and the 5th respondents have failed to file their counter in this petition and hence they were set exparte.

5. Neither the petitioner 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 both sides arguments. Records Perused.

7. On careful analysis, it is noted that the petitioner who is the plaintiff in the suit has filed the suit against the respondents/defendants for a relief of declaration of title and for injunction with respect to the suit property. When the suit is pending for plaintiff's side evidence, this petition has been filed to grant leave to file the documents mentioned in the petition stating that the same could not be traced earlier and thus the delay caused in filing the same. On the other hand, the respondents disputed the admissibility of the documents listed in this petition. The relevancy or the admissibility of the documents 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 petitioner. 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 documents is subject to the proof, admissibility and its relevancy to the case. Considering the above, this court is inclined to allow this petition. However, to compensate the delay and expenses caused to the respondents as a result of this petition, this court is inclined to allow this petition on terms.

8. In the result, this petition is allowed subject to payment of costs of Rs.500/- payable by the petitioner to Respondents 1 and 2 on or before 26.04.2024. Call on 06.06.2024 for reporting compliance.

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 15th day of April 2024.

**Sd/-V. VANNAMALAR,
DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**Sd/-V. VANNAMALAR,
DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.3/2023
O.S.No.77/2009
Date:15.04.2024
DMC,PNI.