

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

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

Wednesday, the 05th day of July 2023

I.A.No.3 OF 2023
IN
I.A.NO.1 OF 2020
in
O.S.No.152 OF 2015

1. Kumar
2. Maheshwari Kumar
3. K.Jeyachithra

.....Petitioners/defendants

-Vs -

S.Kannimma

.....Respondent/plaintiff

This petition came up for hearing on 13.06.2023 in the presence of Mr.R.Sekar, learned counsel for the petitioners/defendants and Mr.G.Nanthagopal and Mrs.S.Revathy, learned counsels for the respondent/plaintiff and 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 is filed by the petitioners under Order VIII Rule 1-A (3) of Civil Procedure Code to grant leave to file the documents mentioned in the petition.

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

The petitioners submit that the suit was filed by the respondent for a relief of permanent injunction to restrain the petitioners from disturbing the respondent's peaceful possession and enjoyment of the suit property. The petitioners further

submit that they have not filed the documents listed in this petition along with their written statement as the same got mixed up with other papers in their Advocate's office and that only now they have traced the same and hence there is a delay in filing the said documents. If the delay is not condoned the petitioners would be put to much hardship. Hence this petition.

3. Brief averments of the counter filed by the respondent are as follows:

The respondent submits that documents listed in the petition are unnecessary to the suit. The document No.1 namely certified copy of Will submitted along with this petition is a forged document and the same cannot be received in evidence. It is well settled law that only the contents of the plaint are relevant at the time of hearing an application under Order 7 Rule 11 of CPC. Therefore defendants written statement or their documents are not at all necessary to decide the application to reject the plaint. There is no sufficient genuine reasons given by the defendants for non filing of documents in time. Hence, this petition is liable to be dismissed with exemplary costs.

4. Neither the petitioners nor the respondent 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.

5. Heard both sides. Records Perused.

6. On careful analysis, it is noted that the petitioners are the defendants in the suit and the suit has been filed by the respondent for a relief of permanent injunction to restrain the petitioners/defendants from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit property. This petition has been filed in I.A.1 of 2020 under Order 8 Rule 1A(3) of CPC to receive the additional documents as enclosed along with this petition. The petition in I.A.1 of 2020 is filed by the defendants under Order 7 Rule 11 of CPC to reject the plaint in OS.No.152 of 2015.

The petitioners submit that since the documents filed along with this petition was mixed up with other papers in their Advocate's Office, the petitioners were unable to file the same at the time of filing their written statement. The petitioners' counsel has submitted that the documents enclosed along with this petition are necessary to prove the case of the petitioners.

7. On the other hand the respondent who is the plaintiff in the suit objects to allow this petition stating that this petition has been filed only to drag on the suit proceedings. Also the respondent submits that the document No.1 Will submitted along with the petition is a forged document created for purpose of this suit. Further the respondent contends that the documents enclosed along with this petition are not relevant to the suit.

8. 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 respondent would have an opportunity to cross examine in order 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 respondent. Moreover, the marking of the said documents is subject to the proof and 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 05th day of July 2023.

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

Both sides documents and witnesses: Nil

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