

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

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

Friday, the 12th day of April 2024.

I. A. NO.5 OF 2023
IN
O.S. NO.168 OF 2011

1. Karuna
2. Venilla

..... Petitioners/Defendants 1 and 2

Versus

1. K.Mani
2. Aaravalli

..... Respondent/Plaintiff
..... Respondent/3rd Defendant

This petition having come on 12.04.2024 before me for final hearing in the presence of Mr.N.R.Gopaalan, learned counsel for the petitioners/Defendants 1 and 2 and Mr.G.Sugumar, Mr.R.Kalamegam, learned counsels for the 1st Respondent/Plaintiff. The 2nd respondent was set exparte in the suit and hence notice to her in this petition is dispensed with. Upon hearing the arguments made by the learned counsels for the petitioners and the 1st respondent and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition has been filed under Order VIII Rule 1A(3) and Section 151 of CPC to grant leave to the petitioners to file the documents listed in the petition.

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

The 1st petitioner submits this affidavit on his behalf and on behalf of his wife, the 2nd petitioner. The 1st petitioner states that an extent of 75 cents (0.30.0 hectare) in

S.No.109/1B of Vichoor Village, Ponneri Taluk is the suit property and that he was in possession of 66 cents out of the said 75 cents from the year 2000 as the purchaser. He states that he settled the said extent of 66 cents purchased by him in favour of the 2nd defendant in the year 2011 but the patta for the said land continued to be in his name. The 1st petitioner further states that he and later the 2nd defendant was paying the kist for the said extent of 66 cents of land. The Government paid insurance amount to them as the standing crops got damaged during the cyclone and also the petitioners state that they had obtained crop loan for the said extent of 66 cents. The receipts for the payment of kist and the documents related to payment of crop insurance and the crop loan would show that only the petitioners were and are in possession of the said extent of 66 cents of land out of the suit property. The 1st petitioner state that the above documents were misplaced earlier and hence the petitioners could not file them earlier. The 1st petitioner state that the documents are material documents to show that the plaintiff is not in possession of the said extent of 66 cents out of the suit property. Hence this Petition.

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

The 1st respondent submits that in the suit already PW1 was examined and in the part heard stage the petitioners now to fill up the lacunae has filed this petition. The petitioners have filed their written statement very long back and having kept quiet for all these years the petitioners have now filed this petition. The 1st respondent submits that the petitioners have filed this petition only to drag on the suit proceedings and that there is no merit in this petition. The documents submitted along with this petition are not related to the suit property and the same are created for the purpose of this suit. The petitioners have illegally obtained the kist receipts in collusion with the revenue officials after the institution of this suit. Therefore the 1st respondent objects to allow this petition. Hence this petition is liable to be dismissed.

4. 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.

5. Heard both sides arguments. Records Perused.

6. On careful analysis, it is noted that the petitioners are the defendants and the 1st respondent is the plaintiff in the suit and that the suit has been filed by the 1st respondent for a relief of declaration to declare certain registered documents as null and void along with other reliefs. When the suit was pending for marking of documents on the side of DW1, this petition has been filed by the petitioners/defendants to permit them to file certain documents on their side. The petitioners state that the documents listed in the petition were misplaced earlier and hence the petitioners could not file them earlier. The petitioners further state that the said documents are material documents to show that the plaintiff is not in possession of an extent of 66 cents out of the suit property. On the other hand, the 1st respondent objects to allow this petition stating that the documents listed in the petition are not related to the suit property and that the same are created for the purpose of this suit. He further states that this petition has been filed only to delay the suit proceedings.

7. On careful consideration of the above this court views that an opportunity to be given to the petitioners/defendants to submit their defense in the suit. 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 petition is allowed the respondents would have an opportunity for cross examination and to test the veracity of the evidence placed by the petitioners.

8. 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. Further, to compensate the delay and expenses caused to the 1st respondent as a result of this petition, this court is inclined to allow this petition on terms.

9. In the result, this Petition is allowed subject to payment of costs of Rs.500/- payable by the petitioners to 1st respondent on or before 26.04.2024. Call on 03.06.2024 for reporting compliance.

Dictated to the steno-typist, directly typed by her in the desktop, corrected and pronounced by me in the open Court on this the 12th 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.5/2023
O.S.No.168/2011
Date:12.04.2024
DMC,PNI