

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

Present : Tmt. S. KAVIPRIYA, B.A., LLB.,
District Munsif, Tiruttani

Dated this Thursday the 22nd Day of April 2021

IA.No.1 OF 2021 IN OS.No.35 OF 2014

...

Subramani

...Petitioner/ 1st Defendant

/Versus/

1. Mannasiammal

...Respondent/Plaintiff

2. The Tahsildar, Tiruttani

3. The Revenue Divisional Officer, Tiruttani

4. The Sub-Registrar, Tiruttani

5. The District Collector, Tiruvallur

...Respondents / Defendants No.2 to 4

This petition came up before me for the final hearing on 30.03.2021 in the presence of M/s. V.Kishore reddy, E. Vijayakumar, A. Akila, and R. Revathi, Counsels for petitioner and Mr. C.A. Natarajan, Counsel for 1st Respondent and Respondents 2 to 5 exparte in the suit, upon hearing both sides and perusing records, having stood over for consideration till this day, this court delivered the following:-

ORDER

This petition is filed under section 151 of CPC to reopen the above case for further Dws.

Petition in brief:

2. The plaintiffs filed the suit for Declaration and injunction against the petitioner/defendant. The above case is posted for argument. The petitioner have to examine the witnesses in his sale deed dated 01.1.2009 which was marked under Ex.B4, since the 1st witness was died, the petitioner have to examine the 2nd witness to

elicit that the petitioner's sale deed was executed after receiving money and possession of the suit property was also handed over to him on that day itself. The petitioner have to prove the same, hence the above suit is to be reopened. The balance of inconvenience would be on the petitioner's side if the above suit is not reopened

Counter filed by the 1st respondent averments in brief:

3. The petition is not maintainable either in law or on facts. The petitioner wanted to examine on his side as already his evidence is closed voluntarily after getting number of adjournment and so he filed this petition to reopen tis case abruptly. There are no bonafide mertis in this petition to reopen this case without any bonafide merits.

Point:-

4. Whether the petitioner is entitled to the relief as sought for?

5. The petitioner filed this petition to reopen the case for further Defendant side evidence. The 1st defendant filed his proof affidavit for Dw1 on 21.03.2018 and petition filed and posted on 02.04.2018. From 02.04.2018 to 06.07.2018 IA is pending. From that date IA allowed, for defendants side marking of documents. On 13.07.2018 for defendants side marking of documents last chance call on 02.08.2018. On 02.08.2018 Dw1 present and examined and for cross of Dw1 call on 14.08.2018. On 14.08.2018, Dw1 absent and for cross of Dw1 call on 05.09.2018. On 05.09.2018 Dw1 present and for cross of Dw1 call on 19.09.32018. On 19.09.2018 Dw1 present and cross examination in part. At request for Dw1 cross continuation call on 09.10.2018. On 09.10.2018, 01.11.2018 and 16.11.2018 Dw1 absent and for cross continuation call on 05.12.2018. On 05.12.2018 Dw1 present and for Dw1 cross examination. At request call on 20.12.2018. From 20.12.2018 to 13.03.2020 several hearings Dw1 was not present continuously and posted for 27.03.2020 and adjourned due to Covid-19. After Covid 19 when the Court started physical hearing on 16.09.2020, again it was posted for Dw1 cross. On 28.09.2020, 07.10.2020, 16.10.2020, 06.11.2020, 05.12.2020, 14.12.2020, 06.01.2021,

27.01.2021, 09.02.2021 and 15.02.2021 it was posted for Dw1 cross and on 15.02.2021 defendant side endorsed no further evidence. Hence defendant side evidence closed and posted for argument on 25.02.2021. Now, the case was posted for arguments. The petitioner wanted to examine further Dws to substantiate his evidence, therefore, this court is of view that an opportunity has to be given to the petitioner to prove his case. Since, this court is the only court to exhaust all available remedies. In the interest of justice, this petition will be allowed on costs.

In the result, this petition is allowed on costs, of Rs.600/- to the 1st respondent. Costs to be paid on or before 26.04.2021 failing which this petition stands dismissed. Call on 26.04.2021.

Dictated to Steno – Typist, computerized by her directly, corrected and pronounced by me in open court, this the 22nd day of April 2021.

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

Both sides Exhibits and witnesses: NIL

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

DRAFT/FAIR ORDER

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DD:22.04.2021

DMC/TRT