

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

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

Dated this Thursday the 18th Day of November 2021

IA.No.2 OF 2021 & IA.No.3 OF 2021 IN OS.No.113 OF 2012

...

K. Venkatesan

...Petitioner/Plaintiff

/Versus/

1. K. Jayapal

...Respondent/ Defendant

This petition came up before me for the final hearing on 11.11.2021 in the presence of M/s. K.V. Ravi and A. Sekarbabu, Counsels for petitioners and M/s. V. Kishore reddy, E. Vijayakumar and A. Akila, Counsels for Respondent, and upon hearing both sides and perusing records, having stood over for consideration till this day, this court delivered the following:-

COMMON ORDER

These petitions are filed under section 151 of CPC to reopen the above case and recall the Pw1 for cross.

Petitions in brief:

2. The above suit has been posted for his side evidence on 16.08.2021 and he had been to his Counsel's house to bring the case bundle from his house. In mean time the petitioner called by this Hon'ble Court and inspite of his other Counsel's representation his evidence was closed and posted for Dws evidence. The petitioner would be put to serious loss and hardship, if the suit is not reopened for his cross examination by Respondent / Defendant. On the other hand the respondent would not be prejudiced, if the above matter is reopened for his further chief examination.

Common counter filed by the respondent averments in brief:

3. The petition is not maintainable either in law or on facts. It is pertinent to

note that the above suit the petitioner has filed his proof affidavit long day back that too in the year 2014 itself. After filing of the proof affidavit the petitioner has filed survey commission petition to survey the suit property. Thus the petitioner has dragging the above proceedings from the year 2014 onwards. The allegations to be contrary are put to strict proof by the petitioner. The petition is highly belated one and this petitioner is to be dismissed in limini. There are no bonafides and no merits in this petition.

Point:-

4. Whether the petitioners are entitled to the relief as sought for?

5. The petitioner filed this petition to recall and reopen the case for plaintiff side evidence. The suit was filed in the year of 2012 and written statement was filed on 06.02.2013 and referred to Lakadath but it was returned and issue was framed on 05.09.2013 and it was posted for trial on 08.10.2013 for several hearings and memo was filed to taken up trial jointly for OS. No.123/2012 and only on 04.07.2014 Pw1 was Chief examined and it was pending for Pw1 Chief continuation. Meanwhile IA was filed and pending from 2014, 2015, 2016, 2017 and 2018 and it was posted for Chief continuation finally on 05.01.2019 and last chance after several hearings on 01.03.2021 plaintiff side evidence closed since Pw1 was absent for many years. From 2018 onwards it was posted for Pw1 cross continuation and hence plaintiff side evidence closed and it was posted for defendant side evidence.

6. On perusal of notes paper it shows that plaintiff have not interest in conducting the suit it was pending for more than 8 years. It shows that plaintiff just filed the suit and not ready to conduct the case and prolonging for these years. Even then the interest of justice to avoid multiplicity of proceedings and to give opportunity to the petitioners, hence this petition has to be allowed with heavy costs.

IA.No.2 OF 2021:-

In the result, this petition is allowed on cost of Rs.750/- to respondent. Cost to be paid on or before 24.11.2021, failing which this petition stands dismissed. Call on 24.11.2021.

IA.No.3 OF 2021:-

In the result, this petition is allowed on cost of Rs.750/- to respondent. Cost to be paid on or before 24.11.2021, failing which this petition stands dismissed. Call on 24.11.2021.

Dictated to Steno – Typist, computerized by her directly, corrected and pronounced by me in open court, this the 18th day of November 2021.

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

Both sides Exhibits and witnesses: NIL

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

