

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI**Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,****District Munsif, Tiruttani.**Dated the Friday of 29th Day of November 2024

I.A.No.10/2024 in I.A.No.6/2023 in OS.No.48/2023

(CNR.No.TNTR21-000051-2023)

...

R. Vijayan

... Petitioner/ 1st Respondent/
1st defendant

/Versus/

V. Manoharan

...Respondent/ Petitioner/
Plaintiff

This petition came up before me for the final hearing on 19.11.2024 in the presence of M/s. P.S. Parathasarathy, K.V. Ravi, Advocates for Petitioner/ 1st Respondent/1st defendant, M/s. B. Mumthaj, B. Akilakumari Suri, M. Kumari, Advocates for Respondent/ Petitioner/ Plaintiff. Upon hearing both sides and 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 I.A.No.6/2023.

1. The averments of the petition in brief are as follows:-

(a) The petition was posted for enquiry to 23.10.2024. The petitioner was bed ridden and could not meet his advocate so as to enable him to get on with enquiry. The petitioner's advocate prayed for some time to get on with enquiry. But this court was closed the respondent side enquiry and the matter was posted to 29.10.2024 for submitting the written argument. The petitioner has got good case on merits. The total extent of suit property is 57 Sq. meters in S.No.32/21. Out of 57 Sq. meters 30 Sq. meters of land belongs to the plaintiff and the remaining 27 Sq. meters belongs to the petitioner.

(b) The petitioner got the said 27 Sq. meters of land under a Will dated 04.10.1974 executed his grandmother Ammianiyammal in his favour when the petitioner was minor represented by mother Kannammal. The original Will is in Telugu and the true Tamil translation copy is also filed. The certified copy of Will dated 04.10.1974 is filed as document No.1. The patta as document No.2. The

Tahsildar, Tiruttani Proceedings in NaKa 3408/2021/A1, dated 01.12.2022 as document No.3. The F.M.B. as document No.4. A consent letter as document No.5. The above said 5 documents are filing the petitioner side documents. If the petitioner side enquiry is not reopened the petitioner would be put to irreparable loss and difficulty. Therefore the petitioner filed this petition.

2. The counter filed on behalf of the Respondent in brief:-

This petition is not maintainable either in law or on facts. The affidavit averments are all false and not maintainable. The petition mentioned documents are not connected to the suit property and all the documents are false and fabricated one. In the year of 1947 onwards the defendant's father is under possession and enjoyment of the same as the absolute owner by construction the house in the suit schedule property without hindrance or what so ever and the said (late) Velayutham died intestate on 05.10.1994 leaving behind his wife, 3 sons and 2 daughters to succeed his estate including the suit property hence after his death his legal heir are under the same possession and enjoyment of the suit property.

(b) The petitioner being political influenced person and wealthy person. Therefore all are under his control by his political influence, the petitioner fraudulently obtained patta. The petitioner very well known about the respondent family situation, hence he started troubling the respondent and his family members entering into their peaceful possession and enjoyment to vacate them from the suit property. The above said Eastern 27 Sq. meters out of the suit 57 Sq. meters is under possession and enjoyment of the respondent for more than 70 years without any hindrance whatsoever. Hence the petition has to be dismissed with cost.

3. Point for determination:

Whether the petitioner is entitled to the relief as sought for? or not?

4. According to petitioner, the petition was posted for enquiry to 23.10.2024. The petitioner was bed ridden and could not meet his advocate so as to enable him to get on with enquiry. The petitioner's advocate prayed for some time to get on with enquiry. But this court was closed the respondent side enquiry and the

matter was posted to 29.10.2024 for submitting the written argument. The petitioner has got good case on merits. Therefore the petitioner filed this petition to reopen the petitioner's side enquiry in IA.No.6/2023. Hence the petitioner prays to allow this petition.

5. Respondents resisted the petition by contending that the petition mentioned documents are not connected to the suit property and all the documents are false and fabricated one. The Eastern 27 Sq. meters out of the suit 57 Sq. meters is under possession and enjoyment of the respondent for more than 70 years without any hindrance whatsoever. Hence prays to dismiss this petition.

6. Heard both sides. On perusal of record, the petition in IA.No.6/2023 was posted to enquiry on 12.09.2024. On 12.09.2024, 27.09.2024, 15.10.2024, 23.10.2024 the case was posted to respondent side enquiry. On 23.10.2024 the petition posted as respondent side enquiry no further adjourned. Even though the petitioner counsel prays time. Hence respondent side closed. Considering the facts and circumstances of the case, this court is of view that an opportunity has to be given to the petitioner to prove his case, hence this petition has to be allowed on terms.

In the result, this petition is allowed on condition that the petitioner has to pay a cost of Rs.500/- to the respondents on or before 11.12.2024 failing which this petition stands dismissed. Call on 11.12.2024.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 29th day of November 2024.

Sd/- R.D. Gurulakshmi
29.11.2024
District Munsif,
Tiruttani.

Petitioner and Respondents side Exhibits and witness: NIL

Sd/- R.D. Gurulakshmi
29.11.2024
District Munsif,
Tiruttani.