

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 Tuesday of 20th Day of August 2024
I.A.No.1/2024 in OS.No.62/2015
(CNR.No.TNTR21-000081-2015)

...

1. K. Babu
2. B. Geetha
3. Sridhar
4. Johar

... Petitioners / 1 to 4 Defendants

/Versus/

1. S. Babu (died)
2. E. Krishnama Naidu(died)
3. P. Ananda Naidu
4. E. Eswaraiyah
5. M. Ramesh
6. The District Collector, Tiruvallur
7. The Tahsildar, Tiruttani

...1 to 5 Respondents/ Plaintiffs

...6, 7 Respondents/ 5, 6 Defendants

This petition came up before me for the final hearing on 12.08.2024 in the presence of M/s. R. Srinivasan, R. Rajeshwara Babu, P. Praveena, Advocates for Petitioners / 1 to 4 Defendants, 1,2 Respondents were died, M/s. A. Fazhurullah, Advocate for 3 to 5 Respondents/ Plaintiffs, 6, 7 Respondents/ 5, 6 Defendants were exparte in main suit. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

Petition is filed under order 8 Rule 1A of CPC to condone the delay in receiving of documents.

1. Petition averments in brief are as follows:-

The Will document was filed in C.M.A. in Subordinate Court. Now only it was returned. Some of the documents were misplaced and now only it is traced out. Therefore the petitioner could not file the documents along with written statement. The delay has occasioned the document are willful to prove petitioner's case. The delay is neither willful nor wanton. Hence, this petition is filed.

2. The counter filed on behalf of the 3 to 5 respondents averments in brief are as follows:-

(a) The petition is not maintainable either in law or on facts. The properties stated in the schedule of the alleged registered Will dated 19.11.1969 do not correlate to the suit schedule mentioned property. The survey numbers of the suit schedule mentioned properties are 150/22, 150/24 and 150/27. Hence the suit properties and the properties stated in the Will dated 19.11.1969 are not one and the same.

(b) The Will alleged to have been executed by one Narasimhulu Naidu, S/o. Venkatrayulu Naidu, Gollakuppam village is not true. The petitioners/ defendants have to prove the genuineness of the Will as per the law. The Will is not valid in law, since the Will schedule mentioned properties are not bequeathed to his own son or daughter, but in favour of some third parties, alleged to have been brought up by the testator Narasimhulu Naidu.

(c) The properties described in the alleged Registered Settlement deed dated 15.05.2012 executed by Jayarama Naidu in favour of 2nd petitioner. The properties described in the alleged SLR/ Adangal copy dated 03.10.2019 filed by the petitioners do not correlate, and created by the petitioners for the purpose of the above false suit. The petitioners are hereby called upon to prove correlation between the old and new survey numbers before this court.

(d) The suit properties are admittedly Gramanatham poromboke, which vest with the occupier, namely the entire villagers of Gollakuppam village, including the parties to the above proceedings. The documents created by the petitioners are not supporting the case of the petitioners/defendants and supports the case of the respondents/ plaintiffs only, who are representing the entire Gollakuppam village. Hence, the petition has liable to be dismissed with costs.

3. Point for determination:-

Whether the petitioner is entitle to condone the delay in receiving of documents? or not?

4. Heard both side. According to petitioner Will submitted in other case and some

of the documents were misplaced and now only they are traced out. Therefore the petitioner could not file the documents along with written statement. Hence, the petitioner prays to condone the delay in filing the document and receive the same. Hence the petitioner prays to allow this petition.

5. The respondent herein objected the petition by stating that the properties stated in the schedule of the alleged registered Will dated 19.11.1969 do not correlate to the suit schedule mentioned property. The Will alleged is not true. The petitioners/defendants have to prove the genuineness of the Will as per the law.

6. Further the respondent contended that the properties described in the alleged Registered Settlement deed dated 15.05.2012 and in the alleged SLR/ Adangal copy do not correlate, and created by the petitioners for the purpose of the above false suit. Hence, the petition has liable to be dismissed with costs.

7. This petition filed seeking permission to receive the additional documents. No prejudice would be caused to the respondents, as the respondents will have opportunities to cross examine the Defendant side witness as to the documents sought to be filed by the petitioner. Hence, in the interest of justice, to prevent multiplicity of proceedings, to provide the petitioners an opportunity to prove their case and for proper adjudication of the case, this petition has to be allowed.

In the result, this petition is allowed. No costs.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 20th day of August 2024.

District Munsif,
Tiruttani.

Petitioners and Respondents side Exhibits and witness: NIL

District Munsif,
Tiruttani.