

IN THE COURT OF DISTRICT MUNSIF, TIRUTTANI

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

Dated this Friday, the 8th Day of October 2021

I.A.No.2 of 2021 & I.A.No.3 of 2021

in

O.S.No.104 of 2015

...

1. D.V. Ugendera Simman
2. C. Rani
3. P. Nagarathnamma
4. R. Kumaravelu (died)
5. Jayalakshimi
6. V. Ugandhar
7. K. Parvathy
8. K. Lokesh
9. K. Vignesh

...Petitioners / Plaintiffs

/Versus/

1. Shanmugam
2. Karpagam
3. The Executive Officer,
3rd Grade Municipality Office, Tiruttani

...Respondents / Defendants

These petitions came up before me for the final hearing on 04.10.2021 in the presence of M/s. K. V. Ravi and A. Seekar Babu, Advocates for petitioners and Mr. K. Lavakumar, Advocate for respondents and upon hearing both sides and 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 plaintiff side evidence for further evidence of Pw3 and under Order 7 Rule 14 (3) of CPC to receive the documents for further marking of documents.

The petitions in brief in IA.No.2 of 2021 & I.A.No.3 of 2021:-

2. Since 2019 due to covid-19 lock down, to the petitioner knowledge the court was not fully functioned and his counsel informed that only argument cases have been posted in the day to day list. The petitioner counsel informed him that the above suit has been posted on 11.08.2021 for plaintiff side evidence and asked to present before this Court. Even though the petitioner was not feel well, he attended the court his presence was noticed by this court. The petitioner was disappointed when his counsel represented before this court to get adjournment to file his chief affidavit. But this court has passed orders as Plaintiff side evidence closed and posted for Defendant side evidence. The petitioner have misplaced some crucial documents some where and he traced out now only. Hence, the petitioner is filing the documents. The delay in filing the documents is neither willful nor wanton but for the bonadife reasons as stated above. Hence in the interest of justice to reopen he plaintiff side evidence for further evidence of Pw3 and to mark documents.

Common counter in brief in IA.No.2 of 2021 & I.A.No.3 of 2021:-

3. The petition is not maintainable either in law or on facts. The petitioners are in the habit of delaying and dragging the suit proceedings with the view to harass the 1 and 2nd Respondent herein. The conduct of the plaintiff / petitioners show that they are not keen to prosecute the suit diligently. However without prejudice to the aforesaid contention and to avoid any further delay in trial and completion of suit, the respondent herein do not want to oppose the petition to reopen the case for plaintiff's evidence, however on a caveat that this court may impose a condition of the plaintiffs to complete their evidence on their side within 4 weeks. Otherwise the plaintiff will not be diligent to complete their evidence. Hence, these petitions are liable to be

dismissed.

Point for consideration:-

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

5. The petitioner filed these petitions to reopen the plaintiff side evidence for further evidence of Pw3 and for marking of petition mentioned documents. The petitioner stated that he has misplaced some crucial documents and he traced out now only. Hence, the petitioner is filing the documents. The delay was filing the documents is neither willful nor wanton.

6. But the counter was filed by the respondent stating that the petitioner has filed this petition to drag on the proceedings and there was no bonafides and no merits in this petition. Hence, these petitions are to be stands dismissal.

7. The suit was filed in the year 2015 and it was posted for trial on 04.07.2017. On 12.10.2017 posted for plaintiff side evidence. On 31.10.2017 1st plaintiff present proof affidavit filed and examined as Pw1, Ex.A1 marked at request for marking further documents call on 10.11.2017. On 20.02.2017 Pw1 present and examined and Ex.A2, A3 marked and posted for cross of Pw1 call on 28.02.2018. On 28.02.2018 Pw1 present, Defendant called absent, no representation for cross of Pw1 call on 16.03.2018. On 16.03.2018 Pw1 call absent for appearance of Pw1 and cross call on 10.04.2018. 08.06.2018 memo filed by plaintiff stating that 4th plaintiff died on 13.05.2015, memo was recorded for steps. On 26.06.2018 Petition under Order 22 Rule3 filed and returned and 10.07.2018 petition represented and pending on 18.07.2018 petition was allowed and for consequential steps call on 25.07.2018. From 25.07.2018 onwards IA.423/2018 was filed and the same was allowed on 30.08.2018 and the plaint was amended on 11.09.2018. Hence, from 23.11.2019 it was posted for Pw1 cross and plaintiff side evidence was closed on 11.08.2021 and from 24.08.20121 onwards it was posted for defendant side evidence. On 24.08.2021 this petition was filed. The petitioner have given sufficient opportunity and time to prove his case, granted for more than 4 years. Even though the petitioner failed to

produce the documents, hence Covid-19 situation will not arise for filing this petition. Even though in the interest of justice to give an opportunity to the petitioner to prove his case, the documents may be marked since mere marking of documents will not decide the merit of the case. Hence, these petitions are allowed with costs.

I.A.No.2 of 2021:-

In the result, this petition is allowed on costs of Rs.500/- to 1st respondent. Costs to be paid on or before 26.10.2021 failing which this petition stands dismissed. Call on 26.10.2021.

I.A.No.3 of 2021:-

In the result, this petition is allowed on costs of Rs.500/- to 1st respondent. Costs to be paid on or before 26.10.2021 failing which this petition stands dismissed. Call on 26.10.2021.

Dictated to Steno - Typist and computerized by her directly, corrected and pronounced by me in open court, this the 8th day of October 2021.

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

Both sides Exhibits and Witnesses:-

NIL

Sd/- S. Kavipriya
District Munsif,
Tiruttani.