

IN THE COURT OF THE ADDITIONAL DISTRICT  
JUDGE(FTC), VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,  
Additional District Judge(FTC), Vellore.

Dated this the 04<sup>th</sup> day of August 2023, Friday

I.A.NO.6/2023 in  
O.S.NO.76/2017

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S.Viswanathan

.. Petitioner/Plaintiff

//Vs//

1. G.Subramani (died)
2. S.Jagadambal
3. Murugan
4. Jothi
5. Gnanambikai
6. Karunakaran
7. Madavan
8. Elumalai
9. Chithra

.. Respondents/Defendants

This petition is coming before me on 03.08.2023 for final hearing in the presence of Thiru.B.Palanisamy, Counsel for the petitioner and of Thiru.S.Babu, Counsel for the respondents No.2, 3, and 9 and of Thiru.K.Armstrong, counsel appearing for the respondents No.4, 5,7,8 and notice to the 6<sup>th</sup> respondent dispensed with on petition and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following:-

**ORDER**

Petition filed by the petitioner under Sec.151 of CPC, prays to reopen the petitioner/Plaintiff's side for further evidence.

**2. The averments of the affidavit as follows:-**

The petitioner herein is the plaintiff in the above suit. The petitioner has filed the above suit as against the respondents/defendants for partition to divide the "A" and "B" schedule mentioned properties into three equal shares and to allot one such share to the petitioner and direct the defendant to hand over the possession of the same to the plaintiff in default through process of court and the same is pending before this Hon'ble Court for disposal.

Now only the petitioner was able to gather the additional evidence on his side for the proof of his case. The reason is neither willful nor wanton. The petitioner filed this petition to reopen the petitioner/Plaintiff's side evidence for further evidence of the Plaintiff. Unless this petition is allowed, he will be put to irreparable loss and hardship. Hence the petitioner filed this petition and prays to allow the petition.

**3. Brief averments of the counter filed by the 3<sup>rd</sup> respondent and adopted by the respondents No.2 and 9 are as follows:-**

This petition is not maintainable either in law or on facts. All the affidavit averments are denied except those that are admitted by the respondents herein. The suit was filed in the year 2009 and it is already more than 14 years old. The petitioner has been trying his best to prolong

the proceedings to harass the parties. In fact no reason was cited in the petition to reopen the suit to adduce further evidence on the part of the Plaintiff. Further, no documents have been filed on their part and no details as to who is going to be examined are given in the petition. In fact, the petitioner has already examined three witnesses in the above suit and this petition is only a dilatory tactics on the part of the petitioner and hence it deserves to be dismissed. Hence the respondent prays to dismiss the petition.

4. The counsel for the respondents No.4, 5,7 and 8 not filed counter, inspite of more than sufficient time given.

5. The point for consideration in this petition is;

Whether the petition is to be allowed or not?

**6. Point:**

The petitioner stated that now only the petitioner was able to gather the additional evidence on his side for the proof of his case. The reason is neither willful nor wanton. The petitioner filed this petition to reopen the petitioner/Plaintiff's side evidence for further evidence of the Plaintiff. Hence the petitioner filed this petition and prays to allow the petition.

But the respondents have denied the allegations and stated that the suit was filed in the year 2009 and it is already more than 14 years old and the petitioner has been trying his best to prolong the proceedings to harass the parties. Further, no documents have been filed on their part and no

details as to who is going to be examined are given in the petition. In fact, the petitioner has already examined three witnesses in the above suit and this petition is only a dilatory tactics on the part of the petitioner and hence it deserves to be dismissed.

Even though the respondents objected for reopening the Plaintiff's side further evidence, but not made any serious objections with regard to the allegations that the petitioner wants to give additional evidence for that purpose they want to reopen the case. The petitioner may be given one more opportunity to establish his case with substantial evidence on merits. But in order to avoid further delay the petition may be allowed on conditions.

In the result, the petition will be allowed on condition that the petitioner shall pay a sum of Rs.200/- to the respondents' 2,3 and 9 counsel directly on or before 11.08.2023 and the petitioner shall file the proof affidavit of the witness to be examined on 11.08.2023 itself, failing compliance of any one of the conditions, the petition shall stand dismissed. Call on 11.08.2023.

Dictated to steno typist, typed by her directly, corrected and pronounced by me in open court, this the 04<sup>th</sup> day of August 2023.

**Additional District Judge(FTC)  
Vellore.**

**Both side witnesses and Exhibits:**

**NIL**

**ADJ (FTC),  
Vellore.**

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),  
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,  
Additional District Judge(FTC).

Dated this the 04<sup>th</sup> day of August 2023, Friday

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S.Viswanathan, aged about 43 years, S/o.Subramani, Hindu, residing at No.2/47, C Kulathu Medu Street, Alamelu Rangapuram Village and Post, Vellore Taluk.

.. Petitioner/Plaintiff

//Vs//

1. G.Subramani (died) , aged 63 years, S/o.Govindasamy,
2. S.Jaagadambal, aged about 60 years, W/o.G.Subramani,
3. Murugan, aged about 35 years, S/o.G.Subramani,
4. Jothi, aged about 32 years, W/o.Vetrivel and D/o.G.Subramani,  
Respondents 1 to 4 are residing at Forest Nagar, Alamelumangapuram Village and Post, Vellore Taluk.
5. Gnanambikai, W/o.Panneerselvam, residing at No.2/61B,Arcot Main Road, Eriyur Village and Vellore Taluk.
6. Karunakaran, aged 38 Years, Son of Murugesu Gounder, residing at Sampangi Nallur, Vellore Taluk and District.
7. Madavan, aged 36 Years, Son of Ramajayam,
8. Elumalai, aged 34 Years, Son of Ramajayam,  
Respondents 7 & 8 are residing at Kollai Medu, Alamelumangapuram Village and Post, Vellore Taluk and District.
9. J.S.Chithra, aged about 41 years, Wife of M.Jayamoorthy, residing at No.1/A, Bajanaikoi Street, Chulaimedu, Chennai-94.

.. 1 to 9 Respondents/Defendants

Petition filed by the petitioner under Sec.151 of CPC, prays to reopen the petitioner/Plaintiff's side for further evidence.

This petition is coming before me on 03.08.2023 for final hearing in the presence of Thiru.B.Palanisamy, Counsel for the petitioner and of Thiru.S.Babu, Counsel for the respondents No.2, 3, 4 and 9 and of Thiru.K.Armstrong, counsel appearing for the respondents No.5,7,8 and notice to the 6<sup>th</sup> respondent dispensed with on petition and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court doth order and decreetal order as follows:-

**DECREETAL ORDER**

1. That the petition will be allowed on condition that the petitioner shall pay a sum of Rs.200/- to the respondents' 2,3 and 9 counsel directly on or before 11.08.2023 and the petitioner shall file the proof affidavit of the witness to be examined on 11.08.2023 itself, failing compliance of any one of the conditions, the petition shall stand dismissed. Call on 11.08.2023;

Given under my hand and the seal of this court, on this the 04<sup>th</sup> day of August 2023.

**Additional District Judge(FTC),  
Vellore.**