

**IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT
PRESENT: THIRU. K.VENKATESAN, B.A., B.L.,
DISTRICT MUNSIF, KATPADI.**

Saturday, this the 15th Day of October – 2022

**I.A.No. 1 of 2022
In
O.S.No. 858 of 2009
(CNR.No.TNVL230000172009)**

1. A.Kanakammal
2. A.Baskaran
3. A.Sankari
4. A.Sujatha
5. A.Saraswathy

.....Petitioners/Plaintiffs

-Vs-

M.Mohammed Ejas Basha

.....Respondent/Defendant

This petition has come up today before this court for orders, and upon hearing the arguments of Thiru. V.Jothiram, the Counsel for Petitioners and Thiru. R.Santhanam, the Counsel for Respondent and upon perusing the petition with documents, counter and this entire case records, and having stood over for consideration till this date, this court delivers the following:

ORDER

This petition has been filed by the petitioners/plaintiffs under Order VII Rule 14 (3) and Section 151 of Civil Procedure Code, to receive the documents mentioned in the petition.

1. **Brief averments of the affidavit filed by the 2nd petitioner is as follows:**

The 2nd petitioner is the 2nd plaintiff in the suit and he filed this petition on behalf

of other petitioners also. The petitioners states the petition mentioned documents is absolutely necessary for arriving a decision in the suit. Hence, the petitioners have filed the petition seeking leave of this court to receive the said documents as evidence on their side at the time of hearing of the suit.

2. **Brief averments of the counter filed by the respondent is as follows:**

The petition filed by the petitioners is not sustainable either in law and on facts of the case. The respondent submits that the object of this petition is to protract the proceedings is explicit from the facts that the petitioners sought time for getting signature in the proof affidavit made ready and also filed the same in the court. Instead of filing the proof affidavit, the petitioners have filed this petition for receiving the documents. Further, the respondent submits that now in the year of 2022, the petitioners have filed the documents which are of the year 2003 and 2008 and not given any reason for the delay in the affidavit. Hence, this petition is liable to be dismissed.

3. Neither the petitioners nor the respondent have placed any oral or documentary evidence before this court.

4. **Point for Consideration:-**

a) Whether this petition is entitled to be allowed or not?

5. **Answering to the Point:-**

Heard both sides. Records perused. Upon careful perusal of this case records including the petition along with the documents relied, counter, and upon considering both side arguments, it is found that the suit has been filed for

declaring the title of the plaintiffs over the suit properties and consequential injunction restraining the defendant and his men, agents from encumbering, transferring or dealing with or interfering with the suit properties in any manner and for costs.

6. The petitioners are plaintiffs and the respondent is defendant in the said suit. The petitioners have stated that they are filing the notice received from the defendant counsel dated 24.03.2003 and the reply notice sent by Vinayaka Mudaliar dated 04.06.2003 and the paper publication in Dhinamalar Tamil Daily dated 31.07.2008 and stated that those documents are very much essential for deciding their case on merits and prayed to receive the said documents. On the other hand, the respondent had stated that there is no proper explanation for the enormous delay of filing the petition mentioned documents and it is filed only to protract the case proceedings.
7. In this case, the defendant filed written statement in the year of 2008 itself and issues were framed on 11.01.2010 and when the case is posted for trial, the defendant filed joint trial memo is allowed by this Court on 30.10.2018 and ordered this case is to be tried along with the O.S.No.909/2009. Both the cases, are pending at trial stage. At this juncture, the petitioners have filed this petition seeking for the leave of this court to receive the documents mentioned in the petition.
8. On perusal of the petition mentioned documents: 1) the copy of the legal notice dated 24.03.2003, it was sent by the respondent through his counsel to one

Vinayaka Mudaliar who is the 1st defendant in O.S.No.909/2009 in respect of this suit schedule properties. Further, in the said suit, the 2nd defendant Arumuga Mudaliar was died and his legal heirs who are the present petitioners were impleaded as 3rd to 7th defendants. 2) the copy of reply notice dated 04.06.2003, It shows that on receipt of the said legal notice, the above said Vinayaka Mudaliar has sent reply notice through his counsel to the respondent counsel. 3) The Paper Publication dated 31.07.2008, it shows that with respect to the suit schedule properties, the petitioners gave public notice by way of paper publication in Dhinamalar Tamil Daily. This court is satisfied that all the above 3 documents are connecting with the suit schedule properties & the parties in both the suits.

9. It is the contention of the learned respondent counsel that there is enormous delay of filing the petition mentioned documents. It is pertinent to note that the respondent had not objected the authenticity of the documents. But, the respondent has objected that it was filed delay. It is true that the petitioners have filed the present petition with delay, but it is the duty of the court to provide fair opportunity to parties to proceedings to produce documents if it is necessary for deciding the issue and no prejudice will be caused to the respondent if the documents are allowed to be produced and will not change or alter the rights.
10. Considering the above aspects and in the interest of the ends of justice, this court is inclined to allow this petition. Accordingly, this point is answered.

11. **Result:-**

From the above discussions, this petition is allowed and the petition mentioned documents are received in evidence on the side of petitioners with subject to proof and admissibility. No costs.

-//Dictated by me to the steno-typist, who directly typed the same and corrected and pronounced by me in the open court, on this the 15th day of October – 2022.//-

DISTRICT MUNSIF
KATPADI

Both sides documents and witnesses: Nil

DISTRICT MUNSIF
KATPADI