

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

Friday, this the 02nd Day of June – 2023

**I.A.No. 2 of 2022
In
O.S.No. 76 of 2020
(CNR.No.TNVL230001202020)**

Velu

.....Petitioner/Plaintiff

-Vs-

1. Anitha
2. Palani
3. Mahadevi
4. Venkatesan
5. Balakrishanan
6. Kasi
7. Devaraj

.....Respondents/Defendants

This petition has come up today before this court for orders, and upon hearing the arguments of Thiru. P.K.Sridhar, the Counsel for the Petitioner, and Thiru. S.Gunasekaran and Thiru. G.Vijayabaskar, the Counsels for the Respondents-1, 2 & 7, and the 3rd to 6th Respondents were called absent and set ex-parte in the main suit itself, and upon perusing the petition, counter and the entire records pertaining to this case, and having stood over for consideration till this date, this court delivers the following:-

ORDER

This petition has been filed by the petitioner/plaintiff under Order 7 Rule 14(2) of Code of Civil Procedure to receive the petition mentioned documents.

1. Brief averments of the affidavit filed by the petitioner is as follows:-

The petitioner is the plaintiff in the above suit and he filed the suit for permanent injunction restraining the defendants their men, agents and servants, from in any way interfering with his peaceful possession and enjoyment of the suit property,

and the same is pending on before this court. Further, the petitioner submits that at the time of filing the suit, he filed the Certified xerox copy of the Sale deed dated 28.02.2000 and at the time the deed was not available and now the said original copy of the sale deed dated:28.02.2000 is traced by him, and now the said deed is in possession. Hence, it is just and necessary to mark the said original registered sale deed dated:28.02.2000 for prove his case, and he also possessed the Electricity White Meter Card, Electricity Consumption charges receipts dated:04.05.2022, House Tax receipts dated:22.12.2000, 08.01.2000, and seeks leave of this court to excuse the delay in filing those documents, and prayed to receive those documents in evidence on his side & permit him to mark the same by allowing this petition.

2. **Brief averments of the counter filed by 2nd respondent is as follows:-**
(Adopted by 1st & 7th respondents)

The petition filed by the petitioner to devoid of merits and lacks in bonafied and the same is liable to be dismissed in-limine. The respondent submits that the documents filed by the petitioner are not pleaded by him in the plaint and thus, when there is no pleadings no evidence can be let in, and on this aspect this petition is liable to be dismissed, and the reason stated for the delay in filing the documents is not supported by any documentary proof, and there are no merits or bonafide in the petition and prayed to dismiss the petition with costs.

3. Neither the petitioner nor the respondents 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:-**

5.1 Both sides have been heard. Records perused. Upon careful perusal of petition, counter and the arguments of both sides and the case records, it is found that the suit has been filed by the plaintiff for permanent injunction restraining the defendants their men, agents and servants, from in any way interfering with the plaintiff's peaceful possession and enjoyment of the schedule mentioned property and for costs. The petitioner herein is the plaintiff and the respondents herein are the defendants in the above suit.

5.2 This petitioner/plaintiff has stated in the petition affidavit that at the time of filing the suit, he filed Certified Xerox Copy of Sale Deed dated 28.02.2000 and now only the original sale deed is traced by him and it is in his possession; and also, prayed to receive Electricity White Meter Card, Electricity consumption charges receipt dated: 04.08.2022, Electricity consumption charges receipt dated: 04.08.2022, and House Tax receipts dated 08.01.2000 & 22.12.2000 on his side evidence & mark the same.

5.3 On the other hand, the respondents-1, 2 & 7 vehemently contended that the petition mentioned documents are not pleaded by plaintiff in the plaint, and when there is no pleadings, no evidence can be let in, and prayed to dismiss the petition with costs.

5.4 On careful perusal of records, it reveals that the defendants-1, 2 & 7 have filed Written Statement, and on the basis, issues were framed on 21.12.2021. On 28.09.2022, the plaintiff examined himself as PW-1 by way of filing proof affidavit, and when the suit is posted for marking of documents, the petitioner/plaintiff had filed this present petition to receive the documents mentioned in the petition and to mark the same in his side.

5.5 On careful perusal of records, in plaint, the plaintiff stated that he is the absolute owner of suit property and he purchased the same vide Sale Deed dated 28.02.2000, and filed the Certified Copy of Sale Deed along with the plaint, and he is in possession and enjoyment of the suit property. In written statement, the defendants-1, 2 & 7 stated that the plaintiff is the adjacent land owner but disputed the ownership of the plaintiff and not specifically denied the possession of the plaintiff in the suit property.

5.6 It is pertinent to note that this suit was filed only for permanent injunction restraining the defendants their men, agents from interfering with the plaintiff's peaceful possession and enjoyment of the suit property. The petition mentioned 1 to 6 documents are more fully connecting the plaint averments and the respondents did not deny the genuineness of the said documents. Generally, 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 respondents if the documents are allowed to be produced and will not change or alter the rights.

5.7 Therefore, this Court is of the view that by receiving the said 1 to 6 documents, there cannot be any pre-judiced caused to the respondents. Instead of, it will definitely give chance to the defendants for testing the veracity and will help to decide the suit on merits. Considering the above aspects, this court is inclined to allow this petition. Accordingly, this point is answered.

6. **Result:-**

From the above discussions, in the interest of justice, this petition is allowed, and the petition mentioned documents are received in evidence on the side of plaintiff and it will be marked with subject to proof & admissibility. No costs.

-//Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 02nd Day of June – 2023.//-

DISTRICT MUNSIF
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Both side documents and witnesses: Nil

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