

In the Court of the Additional District Judge, Srivilliputhur.

Present: Tmt.M.Breetha, M.L.,

Additional District Judge, Srivilliputhur.

Thursday, the 14th day of November 2024

I.A.No.10/2024

In

I.A.No.7/2023

In

O.S.No.106/2014

1) Krishnammal (Died)

2) Renuka ... Petitioners/Defendants 1,3

.Vs.

1. K.R.Kannan ... 1st Respondent/Plaintiff.

2. Shanthi

3. K.Krishnamoorthy

4. V.G.Ganesan

5. M/s. Vinayaga Fire Works Factory

Through its partner R.Bramman

6. S.V.S.P. Manickaraja ... Respondents 2 to 4/ Defendants 2,4,5/
Respondents 5,6/Proposed defendants 6,7.

This petition came on 14.11.2024 for final hearing before this court in the presence of Advocate Thiru.T.Muthukumar, for the petitioner and of Advocate Thiru.G.Narayanasamy for the 6th respondent and respondents 1 to 5 were set exparte and upon hearing the arguments on both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed under Order 8 Rule 1(A)3 of C.P.C to receive documents.

2) **Brief averments of the petition and affidavit:**

The petitioner is the 3rd defendant in the suit and that the 1st respondent has filed the suit seeking relief of partition and that during the pendency of the suit, the 1st respondent had sold the suit property to the 7th respondent and therefore, I.A.No.7/2023 has been filed seeking relief of injunction and that the documents produced along with this petition are imminent to prove the case of the petitioner in the I.A and hence constrained to file this application to receive the documents.

3) **Brief averments of the counter filed by the respondent:**

The respondent has denied all the averments made in the petition and has contended that the reason for non-production of the same before the Court is not bonafide and that the documents are not relevant to the issues to be decided in the suit and pray for dismissal of the petitions with costs.

4) The point for consideration is whether these petitions can be allowed or not?

5) Both sides heard. Records perused. I.A.No.7/23, which has been filed seeking the relief of temporary injunction has been posted for orders . At this stage, the petitioner, who is the petitioner in the said I.A has come forward with this application to receive the documents. Being the petitioner, he has a legal bounden duty to prove his case through oral and documentary evidences. This court would like to impress that mere producing of the documents may not amount to take the same in evidence. The established norms and procedures to be followed in the petition which was filed to receive the documents belatedly has been held by the *Hon'ble Madurai Bench of Madras High Court in the case Gurusamy and others Vs. Santhanam reported in 2005(5) CTC 102 as follows:*

“ ... Generally those documents are received subject to proof and relevancy and the admissibility of the documents in evidence should be decided at the time of marking the same as exhibits and at the time of examination of the witnesses, thereby

making it as evidence. Till such time the court is not expected to go through the admissibility of the document. Mere producing the documents before the court, whether it is registered or unregistered documents, may not amount to taking the same in evidence as understood in law, and there is further stage for the documents to take a shape of evidence, for relying, only at that stage, the admissibility on the basis of stamp duty, registration, etc. has to be seen in detail...”

6) As per the above said principle, this court is of the view that the admissibility of the documents cannot be decided at this stage and the documents can be received subject to its proof and relevancy. Moreover, as the Counsel for the respondent has got sufficient opportunity to raise his objections at the time of marking the documents and to cross examine the witness regarding that document, if it is marked. In such circumstances, this court is of the opinion that by allowing this application, no prejudice would be caused to the other side. Therefore, this court is of the view that the petitioner shall be given one more opportunity to conduct his case.

7) Therefore, for the above reasons and in the interest of justice, this petition stand allowed. No costs.

8) In the result, This petition stands allowed. No costs.

The Judgment was dictated by me to the Steno-Typist, transcribed and printed out by her, then corrected and pronounced by me in open court, this the 14th day of November 2024.

S/d-- Tmt.M.Breetha.,

**Additional District Judge,
Srivilliputhur.**

Witnesses examined by the petitioner: NIL

Witnesses examined by the respondent: NIL

Exhibits marked by the petitioners: NIL

Exhibits marked by the respondents: NIL

S/d-- Tmt.M.Breetha.,
Additional District Judge,
Srivilliputhur.

Additional District Court,
Srivilliputhur.
I.A.Nos.10/2024 in I.A.No.7/2023
in O.S.106/2014
Fair/Draft Order
Date:14.11.2024