

A.Nos. 9707, 9709 & 9710 of 2019
in
C.S.No.415 of 2017

P.T.ASHA, J.

The defendants 1 and 2 are the applicants in the above three applications. The application in A.No.9707 of 2019 has been filed to receive a document viz, an official gazette publication dated 16.03.2016, as an additional document and mark it as Ex.B.19.

2. A.No.9710 of 2019 is filed to reopen the evidence of D.W.1 to receive the additional document.

3. A.No.9709 of 2019 is filed to issue Subpoena to Mr.R.Kumaresan Notary Public Advocate, Roll No.MS523/1990, 29 & 74 J.J.Complex, Thirumangalam, Anna Nagar, Chennai – 40, to give evidence in the above suit with reference to the attestation done in declaration dated 20.05.2015 which was marked as Ex.B.11.

4. A common affidavit has been filed in respect of the three applications in which the 1st applicant would submit that after the completion of her evidence she had come to know that the 1st respondent, namely, the 1st plaintiff had changed her name from Khairunnissa to Chand Begum and that she has recently come into possession of the Gazette Publication dated 16.03.2016. She would further submit that the above application had to be marked since it would be a material to disprove Ex.A.2. Since the evidence, D.W.1 has been closed there is necessity to reopen the evidence so as to mark the said application.

5. From a reading of the written statement it is seen that at no point of time had the applicants / defendants 1 and 2 taken a plea that the 1st plaintiff name was not Chand Begum and that her name was Khairunnissa. On the contrary, the applicants have stated in paragraph No.20 of the written statement that *“after the death of her father in law, the 1st plaintiff along with her husband sought permission of the 1st defendant and her deceased husband to stay with them in a suit premises”*. Even at this juncture there is no statement made by the applicants that the name of the 1st plaintiff

described as Chand Begum in the plaint is wrong and that her name is Khairunnissa.

6. Considering the fact that there is no pleadings to support the contention raised in the applications now filed for receiving the additional documents and to reopen the evidence of D.W.1, this Court is dismissing the application Nos.9707 & 9710 of 2019.

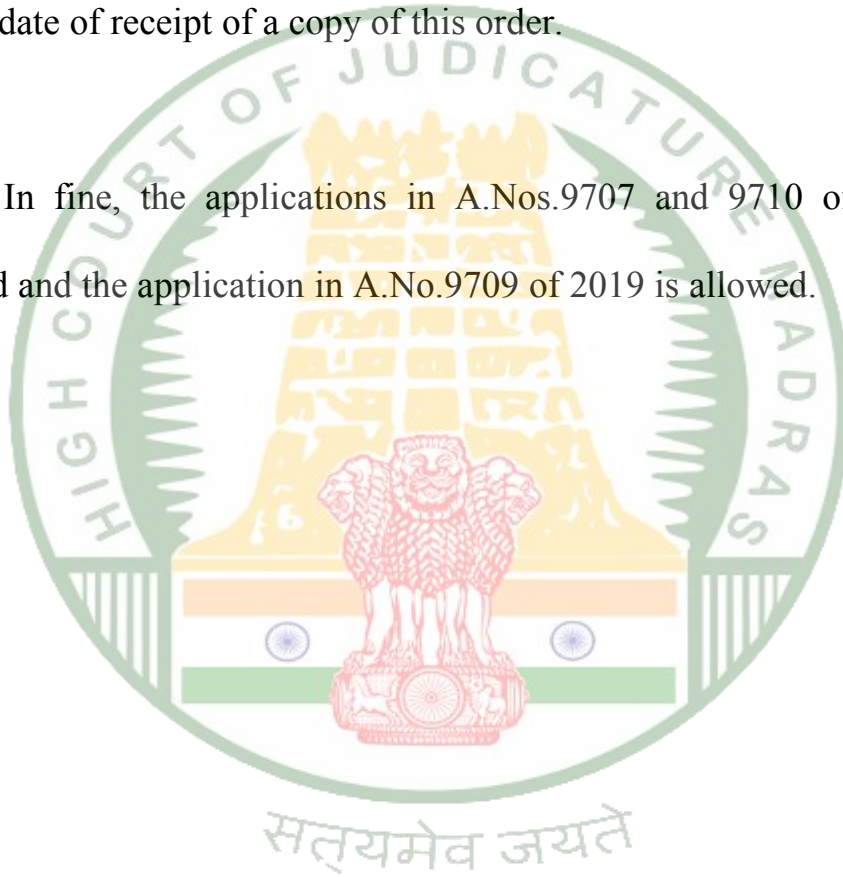
7. The declaration dated 20.05.2015 which is marked as Ex.B.11 has been signed in the presence of the Notary Public who is not sought to be issued with subpoena as contended in A.No.9709 of 2019. The applicants would contend that they want to examine him in order to corroborate the attestation done by the deceased in his presence. It is also seen that the release deed has also been signed in his presence. No prejudice would be caused to the plaintiffs if he is examined. The learned counsel for the plaintiffs also has no objection to the application No.9709 of 2019 being allowed. Consequently, the same is allowed.

8. It is informed by the counsels that the evidence of D.W.1 has been completed and the matter is posted for further evidence. Considering the fact that the suit is of the year 2017 the process of issuing subpoena and the recording of evidence shall be completed within a period of four weeks from the date of receipt of a copy of this order.

9. In fine, the applications in A.Nos.9707 and 9710 of 2019 are dismissed and the application in A.No.9709 of 2019 is allowed.

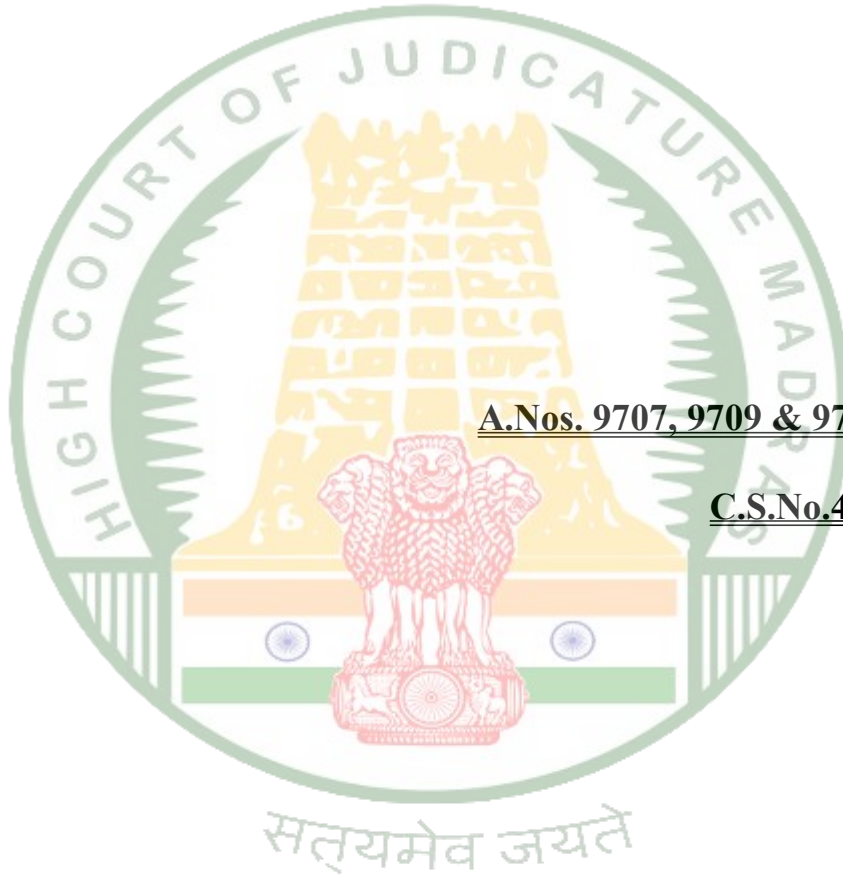
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