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A.No.4738 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2025

CORAM

THE HONOURABLE MR JUSTICE A.A.NAKKIRAN

A NO. 4738 of 2024

IN

CS NO. 581 OF 2013, CS NO. 713 OF 2016

Mrs.Latha Saravanan and 2 others
W/o.M.Saravanan, Plot No.16A, Mahalakshmi
Street, Devi Nagar, Chennai 600 109. and 2 Others

Applicant(s)

Vs

S.M.Siddique and 2 others
S/o.S.M.Khasim, Ground Floor, Door No.97, G
Block, Anna Nagar East, Chennai 600 102. and 2
Others

Respondent(s)

For Applicant(s): Mr.K.M. Venugopal

For Respondent(s): Mr.K.V. Babu
for M/s.Aishwarya S. Nathan

ORDER

The applicants have filed the present application praying to receive the 11 documents as their supporting documents and mark the same in the aforesaid suit.

2. The learned counsel for the applicant submitted that in view of the change in the names of the 3rd and 4th defendants, the Government gazette notification and their birth certificates are necessary to be filed along with the



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Written Statement and the same may be marked as suit documents. Further,

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Encumbrances certificate Nos. 4485 dated 18.04.2007 and 8802 dated 11.08.2011 are the documentary proof of communicating the fact of getting interim injunction in I.A.No.6025 of 2007 in O.S.No.2098 of 2007 on 05.04.2007 to the concerned Sub Registrar, Anna Nagar to record the same in the encumbrance certificate which is very vital one to establish their defence in the suit.

3. He further submitted that the Will dated 09.07.1988 executed by the Testator ie. Dr.Senthamarai Manivannan was filed for probation in O.P.No.121 of 2024 before this Court. Hence the copy of the Last Will dated 09.07.1988 along with copy of the petition are most vital documents to protect their absolute title in the suit property. Further, GPS photos as on 13.07.2024 are to be filed to prove that they are not in possession of the suit property. To prove the applicant's matrimonial home at the suit property, the copy of Family card is to be filed as suit document. To prove the aggressive and cruel character of the applicant's husband, the Written statement filed in O.S.No.2098 of 2007 is to be filed as suit document. Thus, the applicant sought for permission to receive the aforesaid documents relating to the suit which are relevant to consider the merits of the case. Thus he prays for



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allowing of the application.

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4. Learned counsel for the 1st respondent submitted that the suit was filed in 2013 and the written statement was filed on 24.08.2015 and the trial was commenced on 26.07.2022 and the plaintiff side evidence was closed on 05.06.2024 and the defendant filed her proof affidavit on 26.07.2024. The cross examination of the 1st respondent/plaintiff has been concluded. While the suit is in advanced stage of trial, the present application has been taken out in order to prolong the suit as a dilatory tactic.

5.It has been further submitted that out of 11 documents 10 documents are pre-suit documents and the same ought to have been produced at the time of filing written statement, but no sufficient cause has been made out for not producing those documents prior to any stage during the suit. The Last Will dated 09.07.1988 does not find any reference in the written statement and the same has not yet been probated by a competent court. The documents 2,3,5 and 6 are irrelevant to the present proceedings since the identity of the applicants is not relevant in a suit for specific performance, when their relationship with the 1st defendant has not been disputed. While the EC No.4485, dated 18.04.2007 and E.C.No.8802 dated 11.08.2011 have been in existence even before filing the suit, the applicants have not explained the



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long delay in filing EC documents. Further, the applicant seeking to mark the documents as sought in the application is likely to introduce new case in the present suit.

6. It has been further submitted that the photographs of the 1st defendant with one lady showing his immoral is not relevant to the present suit since the case is not related to family dispute. Hence it is irrelevant to the scope of the present suit. In respect of document No.9/copy of written statement, the applicants has not explained the inordinate delay in filing the same. The GPS photo of the property dated 13.07.2024 does not indicate the current status of the property. The applicants have filed the present application at this stage of conclusion of evidence and when the trial is ripe for arguments, with an intention to cause further delay. Hence the present application is liable to be dismissed on the above said ground alone and prayed for dismissal of the application.

7. On perusal of the records, it is seen that the Will dated 09.07.1988 was found on 23.08.2023 for which probate proceeding is pending in O.P. No.121 of 2024 and the stage of the same has not been disclosed by the respondents. The applicant has every right and liberty to put forth her



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contention by letting in oral and documentary evidence. The respondents has every right to cross examine the witnesses relating to the documents. Further, the documents which are relevant or irrelevant would be considered at the time of disposal of the suit.

8.Considering the facts and circumstances of the case and having satisfied with the reasons stated in the affidavit and on taking note of the delay in filing those documents, as well as no prejudice will cause to the respondent by allowing the present application, this court is inclined to allow this application except document No.4, which is not relevant to the present case, subject to payment of cost of Rs.5000/- (Rupees Five thousand only) to the respondents/plaintiffs on or before 13.03.2025 failing which the application shall stand dismissed automatically without any further reference to this Court.

9. In the result, the application is partly allowed.

06 .03.2025

Index: Yes/No
Web: Yes/No
Speaking/Non Speaking

lbm/msr



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To

1. S.M.Siddique and 2 others

S/o.S.M.Khasim, Ground Floor, Door No.97, G Block,
Anna Nagar East, Chennai 600 102.

2. M.Saravanan

S/o.Late Dr.Senthamarai Manivannan, 1st Floor, Door No.97, G Block, Anna
Nagar East, Chennai 600 102.

3. The Sub Registrar

Anna Nagar, Office of Sub Registrar, Anna Nagar, Chennai 600 037.

A.A.NAKKIRAN, J.

lbm/msr



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