

Orders on IA No.III

This is an application filed by petitioner under Order I R10 of CPC., to implead the owner of boat by name Sanjana and his insurer as respondents no.2 and 3 respectively. In the memorandum of facts annexed to the IA it is contended that, during the evidence of RW1 it is realized that the Sanjana fishing boat wherein the deceased was employed is owned by the proposed R2. Hence it is prayed to implead them.

2. On the other hand R1, proposed R2 and 3 have filed their objections.

3. R1 has taken up the contention that he has been wrongly arrayed as a party and as such he has suffered financial loss. The proposed R2 has admitted that he is the owner of Sanjana fishing boat, but denies that the deceased Ganesh Naik was employed under him.

4. The proposed R3 has denied its liability to indemnify and it is prayed to dismiss the IA.

5. Heard Ld. C/P and Ld. C/proposed R2. The proposed R2 has not submitted hearing.

6. The following points would arise for consideration;

“Whether proposed R2 and 3 are necessary parties to the proceeding?”

7. My findings to the above point is in the affirmative for the following;

REASON:

8. Admittedly the proposed R2 is the owner of Sanjana fishing boat wherein it is alleged that the deceased was employed. In the objection itself the proposed R2 has stated that initially the said boat was owned by present R1 and he has sold it out to proposed R2 long ago. Although no particulars are furnished, but the ownership of the boat by proposed R2 is not in denial. Whether or not the said proposed R2 is the employer of the deceased is to be adjudicated after full fledged trial. At the stage of considering applications seeking impleadment, merits of the case need not be gone into. At present, being the owner of fishing boat the proposed R2 and his insurer proposed R3 are the necessary parties to the proceeding. Hence, this court deems fit to pass the following;

ORDER

IA No.III filed under Order I R10 of CPC., is hereby allowed. The Ld. C/P shall carry out necessary amendment by impleading R2 and R3.

Call on for amendment and furnishing amended copy of the petition by 14-03-2024.

Prl. Sr. Civil Judge & CJM.,
Udupi.