

IN THE COURT OF THE MUNSIFF, TIRUR
PRESENT: Sri.SANU.C, MUNSIFF

Friday, the 30th day of August, 2024
the 8th day of Bhadra 1946

INTERLOCUTORY APPLICATION No. 1 OF 2024
IN ORIGINAL SUIT NO. 158 OF 2017

Between:

1. Ullattil Meenashikutty Amma, 86 years,
D/o. Ullattil Kunchi @ Ammunni Amma,
W/o. Manukuttan Nair “Sudhalayam”
Ullattil House, P.O. Kottakkal.
2. U. Unnikrishnamenon, 68 years,
S/o. Chundayil Parameswaramenon, “Aswathi”.
P.O. Vengaloor, Tirur-2.
3. K. Damodaran, 63 years, S/o. Kollathil Chathu,
Ozhoor amsom and P.O, Ayyaya desom,
Tirur Taluk, Thanaloor

Petitioners
Plaintiffs

And:

1. Vallath Padmini, 52 years, D/o. Gopalamenon,
2. Sooraj, 22 years, S/o.Vallath Padmini,
(Respondents are residing at Vallath Ambalaparambil House,
Ayyaya, Ayyaya desom, Ozhoor amsom and P.O, Tirur Taluk,

Respondents
Defendants

This petition coming on this day for hearing before me in the presence of Sri.C.Nandakumar, Advocate for petitioners and of Sri.M.A.Ismail, Advocate for the respondents and the court passed the following;

ORDER

This is an application filed by the plaintiff to implead the siblings of the 1st defendant as supplemental D3 and D4 in the above suit.

2. The case in the petition briefly is as follows:- Petitioner is the plaintiff No.2 in the suit and he filed this petition for and on behalf of the plaintiff Nos. 1 and 3. The above suit was one for permanent prohibitory injunction restraining the defendants from interfere in any way with the possession of the plaint A schedule property by the plaintiffs and from encroaching upon the plaint A schedule property

or parts of the property by the defendants and not to add to the plaint B schedule property and from making any new improvements. An immediate to the east of the plaint B schedule is the property of Vijayanand, brother of the 1st defendant and similarly, the southern side of his property is the property of his sister Savitri. All these properties are the rest of the plaint B schedule. So, they are to be impleaded as supplemental defendants No.3 and 4 respectively. Hence the petition.

3. Respondent filed counter and contended as follows: The petition is not maintainable. It has been 7 years since the above complaint was filed. In the aforesaid petition, these respondents/defendants filed a detailed written statement on 18-07-2017. In the above written statement, it was specifically stated that non-joinder of necessary parties is illegal. It has been 7 years since the respondents in this case filed their written statement. On 20-11-2023, 16-01-2024, 18-05-2024 and on 11-07-2024 are fixed for steps in the above case. But there is no justification for not taking his steps and only now pleading. The petition was filed only to prolong the case. Since they are not necessary parties, the petition is liable to be dismissed.

5. Heard.

6. The point arises for consideration is as follows:-

Whether petition is allowable?

7. **The point:** Needless to say, the plaintiff is the master of the suit. He can implead any person in the pending suit against whom he has got a cause of action which can also be tried with the claims in the pending suit. If an independent suit will lie against the proposed supplemental defendants, they can also be impleaded as

supplemental defendants in a pending suit with respect to a cause of action arose during the pendency of such suit. Petitioner contended that an immediate to the east of the plaint B schedule is the property of Vijayanand, brother of the 1st defendant and similarly, the southern side of his property is the property of his sister Savitri. All these properties are the rest of the plaint B schedule. So, he wants to claim damages including from the proposed supplemental defendants jointly and severally by impleading them as supplemental defendants. Hence, this court is of the view that, impleading of the above persons are necessary for the just decision of the suit.

In the result,

1. The petition is allowed and the supplemental D3 and D4 are impleaded in the suit.
2. The suit against the supplemental defendants shall be deemed to have been instituted only on the date on which the plaintiff made application for impleading them as supplemental defendants.

(Dictated to the Confidential Assistant, she typed directly on computer, corrected and pronounced by me in open court on this the 30th day of August, 2024)

MUNSIFF

Typed by : Girija.V.
Compared by :1. 2.

*Fair Order in IA.1/2024
in OS 158/2017 Dated. 30-08-2024.*