

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : **Tmt.N.Renuga., B.A., B.L.,**

District Munsif, Sulur

Monday the 19th day of February 2024

I.A.No.9/2023

in

O.S.No.59/2022

1. Asok Kumar

2. Nagesh

3. Saraswathi

4. Indhirani

5. Priya

6. Thara (Mentally depressed person)

Rep.by Guardian 1st petition Asok Kumar

...Petitioners/Plaintiffs

/VS/

1. Murugesh

2. Ravichandran,

3. Chandrasekar,

4. Mallika,

5. Gomathi,

6. Vivekanandan,

7. Palanisamy @ Thamban

8. The Tahsildar, Sulur Taluk

9. The District Collector,

Coimbatore District

...Respondents/Defendants

This petition coming on 05.02.2024 for final hearing before me in the presence of Thiru.P.Vijay Anand, Advocate for the Petitioners and Thiru.M.Jayanthinathan, Advocate for the 2nd to 7th Respondents and the 1st, 8th and 9th Respondents are called absent set exparte in main suit and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners under order 6 rule 17 of CPC to amend the petition in IA.No.2/2022.

1. The brief averments of the affidavit filed by the petitioners as follows:

1.1. The plaintiff filed the main suit for declaration of legal heirs and to cancel the legal heirship certificate given already in favour of defendants. In pending suit

the 6th plaintiff who is unsound person has died hence, the plaintiff filed this petition to amend the cause title in the suit and the interim application. Hence, the petition.

2. The brief averments of Counter statement filed by the 2nd Respondent and adopted by the 3rd to 7th Respondents as follows:

2.1. The petition is false, frivolous, vexatious and unsustainable in law and facts. This respondents strongly denies all the averments mentioned in the petition except those specifically admitted hereunder and puts the petitioners into strict proof of the same.

2.2. The 6th petitioner is a mentally retired person which was admitted by the other petitioners in the pleadings. If any case is filed in favour of a mentally unsound person then definitely a court guardian should be appointed for that person only then court proceedings can be done in favour of the mentally unsound person. In this present case the 6th unsound mind petitioner was represented by the 1st petitioner without the permission of the court is liable to reject the plaint in the stage of petition numbering itself.

2.3. In the 6th unsound mind petitioner was represented by the 1st petitioner without the permission of the court is not legal. In this circumstance, the above mentioned 6th unsound mind petitioner also died. Moreover, an unsound person was added as a party in this case without proper court guardianship now she died. The amendment of the plaint is also not valid and permissible by law. Hence, the petition ought to be dismissed.

3. Points for Consideration:-

Whether the petition under order 6 rule 17 of CPC to is to be allowed?

4. Points:-

4.1. Heard the counsels for both the parties. The plaintiff filed the main suit for declaration of legal heirs and to cancell the legal heirship certificate given already. In pending suit the 6th plaintiff who is unsound person has died hence, the plaintiff filed this petition to amend the cause title in the suit and the interim application. The objections raised by the respondents are the matter to be decided in trial.

4.2. The proposed amendment is consequential in nature. As per order 6 rule 17 it can be construed liberally. Hence, this petition is allowed.

In the result, this petition is allowed. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 19th day of February 2024.

District Munsif,
Sulur.

List of witnesses and documents on petitioner side:-

Nil

List of witnesses and documents on Respondents side:-

Nil

District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.9/2023 in
O.S.No.59/2022
Dated:19.02.2024
DMC, Sular