

IN THE COURT OF THE DISTRICT MUNSIF, SULUR.

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

District Munsif, Sulur

Friday, the 12th day of July 2024

I.A.No.2/2022

in

O.S.No.59/20222

1. Ashok Kumar
2. Nagesh
3. Saraswathi
4. Indhirani
5. Priya
6. Thara (Insanity rep by her guardian 1st plaintiff Ashok Kumar) (Died)
(Amended as per order in IA.No.9/2023 dated 19.02.2024)

...Petitioners/ Plaintiffs

/ Vs /

1. Murugesh
2. Ravichandran
3. Chandrasekar
4. Malliga
5. Gomathi
6. Vivehanandhan
7. Palanisamy @ Thamban
8. Thasildhar, Sulur Taluk
9. District Collector, Coimbatore

...Respondents/ Defendants

This petition coming on 21.06.2024 for final hearing before me in the presence of Thiru.P.Vijananth, Advocate for the Petitioners and of Thiru.M.Jayanthinathan, Advocate for the 2nd to 7th Respondents and the 1st, 8th and

9th Respondents are being called absent set exparte and upon hearing of both parties and upon perusing the records and having stood over for consideration till this day this Court delivered the following :

ORDER

Petition filed by the petitioner under Order 39 rule 1 of CPC to an order of temporary injunction restraining the 1st to 7th respondents are not to encumber the suit property in S.F.No.793/1C patta No.472, S.F.No.140, 144 and 145 at Neelambur village on the basis of legal heirship certificate obtained fraudulently by them till disposal of this case.

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

1.1. The plaintiff filed the main suit for declaration of legal heirship of one deceased Rangan son of Lakshmanan, who died on 13.09.1972. That the plaintiffs and the defendants are all the legal heirs of deceased Rangan. Originally the Rangan son of Lakshmanan purchased the suit property and along with his legal heirs he mutated the revenue records in his name and enjoyed the property. The 1st to 7th defendants by suppressing the material facts that the plaintiffs also legal heirs to the deceased Rangan who died on 13.09.1972 have obtained legal heirship certificate from the Tahsildar, Sulur. Hence, the plaintiff filed the present suit for declaration of legal heirship certificate issued by Tahsildar dated 09.07.2014 as null and void and for temporary injunction to restrain the defendants from alienating the property until the disposal of the present suit.

1.2. The Rangan had two wives, 1st wife namely Ramayee 2nd wife namely

Ramathal. The Ramayee and Ramathal and Rangan's mother Najai are died long back. Ramayee had one male son namely Ponnusamy, one female daughter namely Ponnathal both died without issues. The Ponnammal married to one Munisamy and through his matrimonial life she had five female issues and two male issues. Ponnammal died on 29.10.1989 his husband Munisamy died on 10.08.1974. Out of the female heirs Dhanalakshmi, Saraswathi, Jeyalakshmi, Indirani and Thara the Dhanalakshmi and heir issues Jeganathan, Sanjeevi are died. Their issues namely Ashokkumar, Nagesh and Saraswathi are the 1st to 3rd petitioners/plaintiffs in this case. Indirani and her issue daughter Priya are 4th and 5th petitioners/plaintiffs in this case.

1.3. The 2nd wife Ramathal had 6 female heirs and 4 male heirs. The plaintiffs have approached the 1st to 7th defendants who are the issues of Ramathal to partitioned the property belongs to Rangan but the defendants by taking advantage of legal heirship certificate issued by Tahsildar dated 09.07.2014 they have refused to partitioned the property and it is came to the knowledge of plaintiffs that the plaintiffs name are omitted in the said legal heirship certificate. Hence, the plaintiffs filed petition before Tahsildar, Sular and have filed the present suit for declaration and permanent injunction.

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

2.1. The suit is false, frivolous and unsustainable in law and on facts of the

case. There are totally 35 legal heirs for deceased Rangan. Then they must add the each and every legal heirs in this suit as party then only the suit is maintainable. Without adding necessary party itself a valid ground to reject the plaint in this case the plaintiffs admitted the legal heirs but not added them as party finally they seeking prayer for not added party also.

2.2. Out of the genealogy tree of deceased Rangan that some of the legal heirs was died earlier to this suit namely Chinnamani, Kuttiyammal and Sundharambal. No death and legal heirship was produced in this present suit as plaint document. Further the deceased persons legal heirs also not added as party in this suit. No relevant documents was filed along with the plaint.

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

2.4. As per the pleading the 1st to 7th defendants were received the legal heirship dated 09.07.2014 from the 8th defendant. But the plaintiff was approached the 8th defendant on 21.08.2020 in that the 8th defendant there itself clearly stated that the plaintiffs application is barred from limitation. These above said facts are admitted in the plaint by the plaintiffs.

2.5. Further more the court fees also not paid by the plaintiffs for prayer sought for. Moreover there is no cause of action arose for this suit. The legal heirs which mentioned in the certificates alone the actual legal heirs of late.Rangan this defendants denies the other legal heirs which the plaintiffs brings in the plaint with new stories. When the case was in list pendency the counsel for plaintiff filed a memo stating that the 6th plaintiff was died. Hence, the plaintiffs has to be taken steps for that till the filing of the written statement the plaintiffs not taken up the steps for the 6th plaintiff.

2.6. No cause of action was arose for this suit and the prayer relief also not sought for properly finally the necessary parties also not added as party to this suit based on this defendants grounds itself the suit is likes to be dismiss.

3. Point for Consideration:-

Whether the petition under Order 39 rule 1 of CPC is to be allowed?

4. Points:-

4.1. Heard both side. Perused records. The petitioners/plaintiffs filed this main suit for the relief of declaration to cancel the legal heirship certificate of Rangan, son of Lakshmanan who died on 13.09.1972 issued by the 8th defendant on 09.07.2014 and to declare that the person in plaint paragraph III are the legal heirs of Rangan, son of Lakshmanan who died on 13.09.1972.

4.2. This petition filed by the petitioners/plaintiffs for an order of temporary injunction to restrain the 1st to 7th respondents from encumbering or alienate the suit property.

4.3. The main case issue regarding the succession ship of the property and

correct legal heir of the deceased Rangan son of Lakshmanan. Hence to prevent the property being alienate until the finality arrived in this case this court granted temporary injunction by restraining the 1st to 7th respondents not to made any alienation with respect to the suit property till the disposal of the suit.

In the result, this petition is allowed by granting temporary injunction restraining the 1st to 7th respondents are not to encumber the suit property in S.F.No.793/1C patta No.472, S.F.No.140, 144 and 145 at Neelambur village on the basis of legal heirship certificate obtained fraudulently by them till disposal of this case. No cost.

Dictated to the Steno-typist and directly typed by her in computer, and corrected and pronounced by me in open court this the 12th day of July 2024.

Sd/N.Renuga
District Munsif,
Sulur.

List of witnesses and documents on petitioners side:

Nil

List of witnesses and documents on Respondents side:-

Nil

Sd/N.Renuga
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.2/2022 in
O.S.No.59/2022
Dated : 12.07.2024
DMC, Sulur.