

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Friday the 30th day of August 2024

I.A.No.10/2022

in

O.S.No.718/2017

1. Nagammal
2. Subramaniam
3. Karthikeyan
4. Vallalarajan
5. Nirmala
6. Santhamani

... Petitioners/Plaintiffs

/VS/

1. G.Ramachandran (Died)
2. G.Swaminathan (Died)
3. G.Jeyaraj (Died)
4. Janakiammal @ Ammaniammal (Died)
5. Sampathkumar
6. Sumithra
7. Nanthini
8. Deepika
9. M/s.The Christian Mission
Services Pvt.Ltd.,

...Respondents/Defendants

10. Pakkiyam
11. Saradhamani

12. Renugadevi

(Amended as per order in IA.No.14/2024 dated 24.06.2022)

...Respondent/Proposed defendants

This petition is coming on 21.08.2024 for final hearing before me in the presence of Thiru.G.Kannan, Advocate for the Petitioners and Mrs.V.R.Sangeetha, Advocate for the 9th Respondent and the 5th to 8th and 10th , 11th Respondents are called absent exparte and the 12th respondent exparte in IA.No.11/2022 and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioner under order 6 rule 17 of CPC to amend the plaint.

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

1.1. The 2nd petitioner swearing this affidavit on behalf of the other petitioners also. The petitioners/plaintiffs have filed the main suit for declaration and permanent injunction against the respondents. The petitioners/plaintiffs after filing the case they came to know that the 4th defendant died on 01.11.2004 leaving behind her sons ie., 1st to 3rd defendants as her legal heirs. The legal heirs already party in the suit.

1.2. The 2nd to 3rd defendants also died. The 2nd defendant died leaving behind his wife Pakkiyam 10th respondent and 7th and 8th respondents are children and already they are in party in the main suit.

1.3. The 3rd defendant died leaving behind his wife namely Sarathamani 11th respondent. Hence, the legal heirs of the 2nd and 3rd respondents/defendnats who are the 10th and 11th respondents have to be impleaded as proposed defendants to the main suit. The petitioners have filed impleading petitions and the same was allowed on 21.06.2022. In the above circumstance, the petitioners have filed with accompanying application for amend the plaint. Hence, the petition.

2. The brief averments of Counter statement filed by the 9th Respondent/Defendant as follows:

2.1. The petition is false, frivolous, vexatious and unsustainable in law and facts. The petition is an abuse of process of the court and it has been laid only with a vies to spite and harass this respondent. The date of death of the 1st respondent is not known, because already the legal heirs of the 1st respondent who are arrayed as 5th and 6th respondents are on record and even after filing the application to impelad the wife of the deceased, simply the petitioners said that the date of death of the 1st respondent is not known.

2.2. The date of death of the 1st respondent they could not amend the plaint, because it is a mandatory to provide the date of death of the 1st respondent. It the petitioners are not able to ascertain the date of death of the 1st respondent, they ought to have given the memo to the legal heirs of the 1st respondent. But deliberately, it is not done by the petitioners. So this application is a defective one and lacks bonafide. Hence, the petition is 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 main suit is filed for declaration and permanent injunction. Now the petitioners/plaintiffs filed this petition to amend the plaint that, the 2nd defendant died leaving behind his wife Pakkiyam as 10th respondent and the 3rd defendant died leaving behind his wife namely Sarathamani 11th respondent. The petitioners filed this petition to add the 10th to 12th respondents as 10th to 12th defendants in the main suit. The main case is in the stage of filing written statement. The objections raised by the respondent is the matter to be decided in trial.

4.2. As per Order 6 Rule 17 of CPC, the pre trial amendment to be construed as liberally and the plaint can be allowed to amend. The 10th to 12th respondents/defendants are the necessary parties to the 10th to 12th defendants in the

main suit. Hence, in the interest of justice 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 30th day of August 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.10/2022 in
O.S.No.718/2017
Dated: 30.08.2024
DMC, Sulur