

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CHIDAMBARAM

PRESENT: Tmt. S.SUGANIYA SRI B.A.B.L (Hons), M.L., PGDAML

ADDITIONAL DISTRICT MUNSIF, CHIDAMBARAM

TUESDAY, THE 11th DAY OF JULY 2023

I.A.NO.470/2022 AND

I.A.NO.471/2022 AND

I.A.NO.472/2022 IN

O.S.NO. 82/2022

Varadan

..... Petitioner/ Plaintiff

/Vs/

1. Rajasekar
2. Natarajan
3. Tamilarasan
4. Kanaga
5. Malarkodi
6. Jayanthi (died)
7. Kaliyapermal
8. Sumathi
9. Baskar
10. Arunagiri
11. Gandhinathan

....Respondents/ 1 to 10 Defendants
and proposed 11th defendant

For Petitioners	Thiru.K.Ramadoss ,Advocate
Respondent No.3	Thiru.P.Anbalagan, Advocate, set exparte for non filing in this petition
Respondent No.4	Thiru.R.Gnanmani, Advocate set exparte for non filing in this petition
Respondent No.11	Set exparte for non-appearance in petition.
Other respondents	Set exparte in suit.
Relief Claimed in IA.No.470/2022	Petition filed under Section 5 of Limitation Act to condone the delay of 101 days in filling the petition to set aside the abatement caused due to the death of 6 th defendant

Relief Claimed in IA.No.471/2022	Petition filed under Order 22 Rule 9 of CPC to set aside the abatement caused due to the death of 6 th defendant
Relief Claimed in IA.No.472/2022	Petition filed under Order 22 Rule 4 of CPC to implead the legal heirs of 6 th defendant
Final Hearing	22.06.2023

Upon hearing the arguments of petitioner and after perusal of the entire records and having stood over for consideration till this day, this court delivers the following

ORDER

The case of petitioner in IA.No.470/2022:

1. The petitioner is the plaintiff and respondents 1 to 10 are defendants in the suit. The suit is filed for the relief of partition thereby claiming plaintiff's 1/8th share in suit property. During the pendency of the suit, the 6th defendant has died intestate on 22.02.2022 leaving behind 11th respondent as his legal heirs. The petitioner has suffered from ill-health and could not be able to inform his counsel about the demise of 6th defendant. Hence, this petition is filed to condone the delay of 101 days in filling the petition to set aside the abatement caused due to the death of 6th defendant.

The case of petitioner in IA.No.471/2022:

2. The petitioner is the plaintiff and respondents 1 to 10 are defendants in the suit. The suit is filed for the relief of partition thereby claiming plaintiff's 1/8th share in suit property. During the pendency of the suit, the 6th defendant has died intestate on 22.02.2022 leaving behind 11th respondent as his legal heirs. The petitioner has suffered from ill-health and could not be able to inform his counsel

about the demise of 6th defendant. Hence, this petition is filed to set aside the abatement caused due to the death of 6th defendant.

The case of petitioner in IA.No.472/2022:

3. The petitioner is the plaintiff and respondents 1 to 10 are defendants in the suit. The suit is filed for the relief of partition thereby claiming plaintiff's 1/8th share in suit property. During the pendency of the suit, the 6th defendant has died intestate on 22.02.2022 leaving behind 11th respondent as his legal heirs. The petitioner has suffered from ill-health and could not be able to inform his counsel about the demise of 6th defendant. Hence, this petition is filed to implead the legal heirs of 6th defendant.

4. Respondents set exparte for non filing of counter and non appearance before this court.

5. Now the point for consideration is whether the petitioner is entitled to get the reliefs as prayed for?

6. On the side of petitioner and respondent, no oral and documentary evidence was let in.

Points For Consideration:

7. Heard the learned counsel for petitioner. Material records perused. This is the suit filed for the relief of partition. The suit pertains to the year 2022. According to the plaintiff, during the pendency of the suit, 6th defendant plaintiff has died on 22.02.2022 and 11th respondent is his legal heir. In the considered view of this court, the scope of this petition is very limited to the extent of allowing the legal heirs to conduct the suit. It is also to be noted that the procedures are handmade of justice and it should prevent the miscarriage of justice. Therefore, on considering the entire facts and circumstances of the case, this court is of the view that the petitioners herein has right to progress the suit by impleading the legal heirs of the deceased 6th defendant. Hence, this court is inclined to allow this petition so as to render substantial justice and for complete adjudication of issues in the suit.

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

Dictated to the steno-typist, transcribed by her and typed in computer, corrected and pronounced by me in the open court this the 11th day of April 2023.

(Sd/-S.Suganiasri)
Additional District Munsif,
Chidambaram.

List of witnesses and documents on the side of the petitioners:

NIL

List of witnesses and documents on the side of the respondents:

NIL

(Sd/-S.Suganiasri)
Additional District Munsif,
Chidambaram.