

IN THE 1 ADDITIONAL DISTRICT & SESSIONS COURT

AT CUDDALORE

Present: Thiru. **S. Prakash**, B.Sc., B.L., LL.M.,
1st Additional District & Sessions Judge (FAC),

Saturday, the 4th day of November, 2023

I.A.No.373/2023, 374/2023 and 375/2023 in

O.S.No.393/2022

(CNR No. TNCD01 - 008844-2022)

Common I.A.No.373/2023, 374/2023 & 375/2023 :

1. Kasthuri (died)
2. Bassecare
3. Bactavadjalame
4. Soumady
5. Ragoubady

... Petitioners/ Plaintiffs

/vs/

Suresh

... Respondent / Defendant

These Petitions came up before me for final hearing on 30.10.2023 in the presence of Thiru. M.S.Subramanian, Advocate for the Petitioners and Thiru. R.Gururaj, Advocate for the Respondent in those Petitions, and upon hearing the arguments on both side and upon perusing the case records and having stood over for consideration till this day and this Court delivered the following:

ORDER

1. The Plaintiffs filed Three Applications vide I.A.No.373, 374 & 375/2023 and the reliefs are runs as follows,

I.A.No.373/2023 :

It is prayed that to pass an order permitting the Petitioners / Plaintiffs herein to amend the above Suit as mentioned in the Petition and pass necessary orders in the interest of Justice.

I.A.No.374/2023 :

It is prayed that to pass an order permitting the Petitioners / Plaintiffs herein to amend the name of the Defendant as mentioned in the Petition and pass necessary orders in the interest of justice.

I.A.No.375/2023 :

It is prayed that to pass an order permitting the Petitioners / Plaintiffs herein to amend the above I.A.85/2023 as mentioned in the Petition both in affidavit and Petition and pass necessary orders in the interest of justice.

2. Heard both sides and endorsement made thereon carefully perused and considered, in the light of submissions made by the Counsels appearing for the litigants.

3. The I.A.No.373/2023 is posted for Counter and Disposal. So far the Respondent / Defendant has not chosen to file Counter in the said Application. Thus, all the 3 Applications are taken up together consideration.

4. It is the specific case of the Plaintiffs that the name of the Defendant was wrongly mentioned as Suresh due to oversight instead of Sathishkumar. The Respondent / Defendant Counsel reported no Counter and made endorsement with reference to relief. I.A.No.375/2023 is relating to amendment in I.A.No.85/2023 with reference to death of Plaintiff No.1 /

Kasthuri. The Counsel for Defendant made endorsement that the Application may be allowed.

5. The I.A.No. 373 of 2023 is relating to relief to amend the Plaint relating to cause title pursuant to the death of Plaintiff No.1 . In the said Application the proposed amendments are set out in the Petition as,

Details of proposed amendment :

1. In the main Suit, in the short cause title, after the name of the first Plaintiff, Kasthuri, add, " died, rep. by her LRs, the Plaintiffs 2 to 5 herein".

2. In the long cause title, after the name of the first Plaintiff, Kasthuri, wife of late Ethiraj, add, " died rep. by her LRs, the Plaintiffs 2 to 5 herein".

On careful perusal, it is noted that instead of making proper amendment in the body of the Plaint about the legal heirs particulars of Plaintiff No.1, it was mentioned in the proposed amendment that The Plaintiff No.1 was represented by LRs, the Plaintiff No.2 to 5 in the cause title portion. The said amendment is not in order and thus not sustainable. Thus, the Plaintiffs are at liberty to file fresh Application with reference to death of Kasthuri / Plaintiff No.1 as well as, her survive legal heirs in the body of the Plaint.

Conclusion :

6. In the result, the I.A.No.374/2023 and 375/2023 are allowed. The relief in respect of I.A.373/2023 is dismissed with liberty to file fresh

Application with correct particulars relating to amendment in respect of death of Plaintiff No.1 and her survive legal heirs in the cause title as well as in the body of the plaint.

For compliance by 12.12.2023.

// Dictated to the Steno-Typist, written and transcribed by her, corrected and additions made by me in my official Laptop and pronounced by me in open Court on this the 4th day of November 2023 //

**I Additional District & Sessions Judge (FAC),
Cuddalore.**

Both sides Exhibits & Witnesses :- Nil

**I Additional District & Sessions Judge (FAC),
Cuddalore.**