

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V. Devapriya, B.Sc.,M.L.
District Munsif, Madurantakam

Tuesday, the 3rd day of October, 2023

I.A.No. 11/2023
in
O.S. No. 117/2021

1. Danusuammal (died)

...Petitioner/Plaintiff

2. Nagaraj
3. Murugan
4. Madhavan
5. Sundari
6. Udhayakumar
7. Menaka

...Petitioners 2 to 7/ Proposed Plaintiffs

-VS-

1. Chandra
2. Kalyani

...Respondents/ Defendants

These petitions coming up before me on 14.09.2023 for final hearing in the presence of, Thiru.B.Rajesh, counsel for the Petitioners 2 to 7 /Proposed Plaintiffs and Thiru.V.Agoram, counsel for Respondents/Defendants and after hearing the arguments of both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioners 2 to 7 /Proposed Plaintiffs under Order VI Rule 17 of Code of Civil Procedure, to amend the plaint.

2.The averments stated in the petition in brief:

The 1st Petitioner/Plaintiff Dhanusammal had filed the above suit for permanent injunction. Pending suit the 1st Petitioner/Plaintiff Dhanusammal died intestate on 02.02.2022 leaving behind her sons Nagaraj, Murugan and Madhavan as her legal heirs. The another son of 1st Petitioner/Plaintiff, namely Harikrishnan died unmarried on 28.12.2021 and predeceased the 1st Petitioner/Plaintiff. The another son of 1st Petitioner/Plaintiff, Veerapandiyan also predeceased the 1st Petitioner/Plaintiff on 25.10.2014 leaving behind his wife, Sundarai, son, Udhayakumar and daughter, Menaka, as his legal heirs. Therefore the Petitioners 2 to 7 /Proposed Plaintiffs had filed petitions in I.A. Nos. 4, 8, 9 of 2022 to implead them as Plaintiffs and the same was allowed on 27.03.2023. Therefore, it is necessary to amend the plaint in the above suit. Hence the petition.

3.The averments stated in the Counter filed by the Respondents/Defendants in brief:

This petition is not maintainable under law and on facts. The averments stated in the affidavit are not maintainable in law. The Petitioners had not filed petition to condone delay and the same was allowed. But the Petitioners had not filed petition to set aside the abatement and therefore the suit already gets abated. Therefore, this petition for amendment is not maintainable. Hence this petition is liable to be dismissed with costs.

4. The point for determination is whether these petitions are to be allowed or not?

5. No Exhibits marked and no witnesses were examined on both sides

6. Heard both sides and perused the records.

7. The Petitioners 2 to 7/Proposed Plaintiffs had filed this petition to amend the plaint in the above suit. The Respondents/Defendants resisted the petition stating that the suit gets already abated. Perusal of records reveal that the Petitioners 2 to 7/Proposed Plaintiffs had filed petitions to condone the delay in filing the petition to set aside the abatement and to set aside the abatement of suit against the 1st Petitioner/Plaintiff and to implead the legal heirs of 1st Petitioner/Plaintiff and the same was allowed on 20.03.2023. The amendment sought for in this petition is only a consequential amendment. Hence, in the interest of justice, this court is inclined to allow this petition.

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

Typed by me in my laptop, corrected and pronounced by me in open court on this the 3rd day of October, 2023

District Munsif
Madurantakam

Petitioners side witnesses and documents:

Nil

Respondents side witnesses and documents:

Nil

District Munsif
Madurantakam