

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

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

Thursday, the 23rd day of November, 2023

I.A.No.6/2023

in

O.S.No. 14/2022

1. Pappa (died)
2. Subramani

Petitioners/Plaintiffs

-vs-

1. Kumaran
2. Kumuthavalli
3. The Thasildar, Madurantakam
4. The District Collector, Chengalpattu

Respondents/Defendants

This petition coming up before me on 04.11.2023 for final hearing in the presence of, Thiruvargal. R.E Charles, D. Kavitha and A. Gnanavel, counsels for the Petitioners/Plaintiffs and Thiruvargal K. Ayyasamy and S. Senthilkumaran, counsels for the 1st Respondent/1st Defendant and Thiruvargal. N. Dhivya, J. Suresh, B. Arifa, Santhiya, counsels for the 2nd Respondent/2nd Defendant and Respondents 3 and 4/ Defendants 3 and 4 having been set exparte in the main suit and after hearing the arguments on 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 Petitioner/Plaintiff under order VI Rule 17 and section 151 of Code of Civil Procedure, to amend the plaint in the above suit.

2.The averments stated in the petition in brief

The Petitioners/ Plaintiffs had filed the above suit for declaration and mandatory injunction. The 1st plaintiff, pappa, the mother of 2nd Petitioner/2nd Plaintiff, died on 14.08.2022 leaving behind the 2nd Petitioner/2nd Plaintiff as her only legal heir and he is already on record. The 2nd Petitioner/2nd Plaintiff had filed the death certificate and legal heir certificate of the 1st Plaintiff. Hence, there is no necessity to file an application under Order 22 Rule 3 of code of Civil Procedure, to implead the legal heirs and recording the death of the party, alone is sufficient. Hence the petition.

3. The averments stated in the counter filed by the 1st Respondent/ 1st Defendant in brief:

This Petition is not maintainable under law and on facts. The Proposed amendments given in the petition was not properly given. There is no merits in the petition. Hence this petition is liable to be dismissed with costs.

4. The averments stated in the counter filed by the 2nd Respondent/2nd

Defendant in brief:

The father of the 2nd Respondent/ 2nd Defendant namely Murugesan had two wives namely Papa and Rani. The 2nd Petitioner/ 2nd Plaintiff herein is the legal heir of the said Papa and Murugesan and the Respondents 1 and 2/ Defendants 1 and 2 herein are the legal heirs of the said Rani and Murugesan. The said Papa and Rani are sisters and the father of the 2nd Respondent/2nd Defendant had married her mother with the consent of his 1st wife Papa. The 2nd Respondent/2nd Defendant agrees that the 2nd Petitioner/2nd Plaintiff is the sole legal heir of the deceased Papa. But the said Murugesan have left behind the 2nd Petitioner/2nd Plaintiff, and Respondents 1 and 2/Defendants 1 and 2 herein as the surviving legal heirs, as they all are born to the said Murugesan. The 2nd Petitioner/2nd Plaintiff is trying to portray as if he is the sole legal heir of Murugesan and the same is not true. The objections raised may be recorded and the petition may be allowed.

5. The point for determination is whether this petition is to be allowed or not?

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

7. Heard both sides and perused the records.

8. The Petitioners/Plaintiffs had filed this petition to amend the plaint on the

ground that the sole legal heir of the 1st Plaintiff is already on record as 2nd Plaintiff. The 1st Respondent/ 1st Defendant had not made any specific objection for the amendment. The 2nd Respondent/ 2nd Defendant had admitted that the 2nd Petitioner/2nd Plaintiff is the sole legal heir of 1st Plaintiff. The Petitioners/Plaintiffs had filed the death certificate and the legal heir certificate of the 1st Plaintiff. In the legal heir certificate of the 1st Plaintiff, it is shown that the 2nd Petitioner/ 2nd Plaintiff alone is the legal heir of 1st Plaintiff. Since the sole legal heir of the 1st Plaintiff is already on record as 2nd Plaintiff, this court is inclined to allow this petition.

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

Dictated to the Stenographer and transcribed by him and corrected and pronounced by me in open court on this the 23rd day of November, 2023.

District Munsif
Madurantakam

Petitioner side witnesses and documents:

Nil

Respondent side witnesses and documents:

Nil

District Munsif
Madurantakam