

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.7/2023
in
I.A.No. 5/2022
in
O.S.No. 14/2022

Kumaran

Petitioner/Petitioner/ 1st Defendant

-vs-

1. Pappa, (Died)
2. Subramani

Respondents/Respondents/Plaintiffs

3. Kumuthavalli
4. The Thasildar,
Madurantakam
5. The District Collector,
Chengalpattu

Respondents/Respondents/Defendants 2 to 4

This petition coming up before me on 04.11.2023 for final hearing in the presence of, Thiruvargal. K. Ayyasamy and S. Senthilkumaran, counsels for the Petitioner/Petitioner/1st Defendant and the 1st Respondent/1st Respondent/1st Plaintiff having been died and Thiruvargal R.E Charles, D. Kavitha and A. Gnanavel, counsels for the 2nd Respondent / 2nd Respondent / 2nd Plaintiff and

Thiruvalargal. N. Dhivya, J. Suresh, B. Arifa and Santhiya for 3rd Respondent/3rd Respondent/2nd Defendant and the Respondents 4 and 5/Respondents 4 and 5/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/1st Defendant under Order VI Rule 17 of Code of Civil Procedure, to amend the petition in the above I.A.No. 5/2022.

2.The averments stated in the petition in brief

The Petitioner/Petitioner/1st Defendant filed an application to set aside exparte order in I.A.No.5/2022 and the same is pending. On. 14.08.2022 the 1st Respondent/1st Respondent/1st Plaintiff, Pappa died. The 2nd Respondent/2nd Respondent/2nd Plaintiff have filed petition to amend the plaint in the above suit, with regard to death of 1st Respondent/1st Respondent/1st Plaintiff. Hence, it is just and necessary to amend the short cause title and long cause title in I.A. No. 5/2022 in O.S. No. 14/2022, with regard to the death of the 1st Respondent/1st Respondent/1st Plaintiff. Hence the petition.

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

Respondent 2nd Plaintiff in brief:

The Petitioner/Petitioner/1st Defendant is a relative of the Respondents1 and 2/Plaintiffs and he is also residing in the same village. The date of death of 1st Respondent/1st Respondent/1st Plaintiff is known to all the villagers including the Petitioner/Petitioner/1st Defendant. The above I.A. 5/2022 is filed after the death of 1st Respondent/1st Respondent/1st Plaintiff. Hence the reason stated in the affidavit is not correct. The Petitioner/Petitioner/1st Defendant had filed this petition belatedly. Hence this petition is liable to be dismissed with costs.

4. The learned counsel for the 3rd Respondent/3rd Respondent/2nd Defendant had endorsed no counter.

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 Petitioner/Petitioner/1st Defendant had filed this petition to amend the petition in the above IA on the ground that the sole legal heir of the 1st Respondent/1st Respondent/1st Plaintiff is already on record as 2nd Respondent/ 2nd Plaintiff and that he had filed petition to amend the plaint. The 2nd Respondent /

2nd Respondent/ 2nd Plaintiff had not made any specific objection with regard to the legal heir of 1st Respondent/1st Respondent/1st Plaintiff. Further the perusal of records show that the 2nd Respondent/2nd Respondent/ 2nd Plaintiff had filed petition to amend the plaint stating that he is the sole legal heir of the 1st Respondent/1st Respondent/ 1st Plaintiff and had filed the death certificate and the legal heir certificate of the 1st Respondent/1st Respondent/1st Plaintiff. In the legal heir certificate of the 1st Respondent/1st Respondent/ 1st Plaintiff, it is shown that the 2nd Respondent/2nd Respondent/ 2nd Plaintiff alone is his legal heir. Since the sole legal heir of the 1st Respondent/1st Respondent/1st Plaintiff is already on record as 2nd Respondent/2nd Plaintiff in the above IA, 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