

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
DINDIGUL.

PRESENT : **THIRU. A.K. MEHBUB ALI KHAN, B.LM., LL.M.,**

PG.D.PM/IR.,

ADDITIONAL DISTRICT JUDGE, DINDIGUL.

Saturday, the 6th Day of April 2024

I.A. No.11/2024

-in-

O.S. No.107/2015

Chinnamatha Naicker

... Petitioner / Plaintiff

-Vs-

1. Bommuthai
2. Samiappan @ Thangapandian
3. Panthibommuthai @ Rajammal (Died)
4. Ammani
5. Samykannu
6. Sivapandi
7. B. Thangaraj
8. T. Sivakumar
9. T. Rajendran
10. T. Dhanalakshmi

... Respondents / Defendants

This petition came on 19.03.2024 before this Court for final hearing in the presence of Tvl. B. Thangapandian, K. Muthuvel, Advocates for the Petitioner / Plaintiff. Thiru. Jahangir, Advocate for respondents 1 and 2. 3rd Respondent died. Thiru. S. Vijayakumar, Advocate for respondents 4 and 6. 5th Respondent called absent and set exparte in main suit. Thiru. Arivalagan,

Advocate for 7th respondent and Thiru. S. Harihara Ramachandran, Advocate for respondents 8 to 10 and after having heard the argument of both sides and on perusal of records, this Court delivers the following :

ORDER

Petition filed by the petitioner / plaintiff Under Order 6, Rule 17 of C.P.C.

2. Contention of the Petitioner / Plaintiff:

The Petitioner has filed the suit for partition of his 1/3rd share in the suit properties. But, the properties standing in the name of defendants 1 and 3 in patta Nos. 2572 and 2629 are the joint family properties purchased in their names out of the joint family income. This fact was known to the plaintiff only when DW1 was cross examined. Hence, the application to implead them as 11th and 12th items in the suit schedule was filed in I.A. No.9/2023 and the same was allowed on 31.07.2023. Accordingly, the plaint was also amended including the said properties. But, the valuation of the total properties and the value of the share of the plaintiff has to be amended by including the value of these properties. Hence, he has filed the petition to amend the valuation of the property and his share. He has stated that there may not be any objection for this and prays to allow the petition accordingly.

3. **Contention of the Respondents / Defendants:**

The respondents 2, 8, 9 and 10 alone have filed the counter '*inter alia*' stating that they have to file additional written statement for the amended plaint including the items 11 and 12. Those two items are the exclusive and separate properties of the defendants 1 and 3 and the plaintiff cannot claim any share in those properties. They have further stated that, if the plaint is amended, they would be put to irreparable loss and hardships. Hence, they have prayed to dismiss the petition.

4. Point for consideration in this petition is, **Whether the petition be allowed and the plaint be rejected?**

5. Heard both sides.

6. **POINT:**

Admittedly, the properties standing in the name of Defendants 1 and 3 were already added as items 11 and 12 of the plaint schedule as per order in I.A. No. 9/2023 dated 31.07.2023. But, in that amendment, the plaintiff had not included the details of valuation of the newly added properties and thereby no amendment regarding the total value of the suit properties and his

share was prayed in the earlier petition and so he has filed this petition.

7. Though, there may not be any valid objections for this petition since the properties were already added in the suit, the plaintiff should have prayed for the amendment of the valuation also in the earlier petition i.e., in I.A.No.9/2023. But, he had not done so. This has caused considerable delay and hardships to the parties. Hence, this court is of the opinion, that the petition shall be directed to compensate the hardships so caused by his piece meal amendment petitioners.

8. Accordingly, it is held that the petition will be allowed on payment of cost of Rs.1,000/- to the respondents 2, 8, 9 and 10 and also on deposit of Rs.1,000/- to the District Mediation Centre on or before 29.04.2024. This point is decided accordingly.

Write down by me and typed by the stenographer in computer, corrected and pronounced by me in the Open Court on this the 6th day of April 2024.

Sd/- Tr.A.K. Mehbub Ali Khan

Additional District Judge,
Dindigul.