

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
NATHAM**

Present: Tmt. V. Udhayasuriya, M.L.,
District Munsif cum Judicial Magistrate,
Natham.

Dated this Friday, 4th day of November 2022

I.A. No. 328 OF 2022 in O.S. No. 89 of 2017

1. Muthazhagi
2. Jothi
3. Ramalingam
4. Boomiraja
5. Azhaganatchi

... Petitioners/Plaintiffs

/Vs/

- 1.Pothiyazhagi
- 2.Selvam
- 3.Chinnasamy @ Krishnan
4. Mayammal

... Respondents/Defendants

This petition is filed on 13.10.2022 and coming before me for final disposal on 04.11.2022 in the presence of Thiru.K.Moorthy, the learned counsel appearing for the petitioners/Plaintiffs and Thiru.K.Venkittaraman, the learned counsel appearing for the respondents and having heard the both side argument and upon perusing the documents, this court doth hereby pronounce the following:

ORDER

This petition is filed under order VI rule 17 Cpc to amend the plaint.

1. Brief averments of the Petition:

The petitioner stated that they filed a suit for declaration and permanent injunction against the respondents. At the time of filing the suit the 4th respondent/ 4th defendant was arrayed as 6th palintiff. Thereafter, she was transposed as a 4th defendant as per the order dated 03.01.2020 in I.A. No.181 of 2018 and to that effect the plaint was amended as per the order dated 14.02.2020 in I.A. No. 24 of 2020 and the suit posted for trial in special list. At the time of perusing the plaint it came to knowledge that, in the long cause title , and in Paragraphs no. 4,5,7 to 10 and in the prayer 'B' the name 6th plaintiff was not removed and it is necessary to amend the 6th plaintiff as 4th defendant and it will not cause any prejudice to the other side. Hence, prays to allow this petition.

2. Brief averments of the Counter statement:

The respondents stated that this petition is filed with an malafide intention to drag the proceedings. They further stated that the suit is posted for trial in list, at this stage the petitioners wantonly filed this petition to drag the proceedings. In this case, the 6th plaintiff was transposed as 4th defendant in the year 2020 and the plaint also amended already. At the time of 1st amendment, the petitioner has failed to note down the errors. Now they come forward with this petition is not maintainable. Hence, the petition is liable to be dismissed.

The Point for determination is Whether the petition is liable to be allowed?

3. Both side enquiry heard. The learned counsel for petitioner argued that due to oversight he failed to amend the present particulars at the time of earlier amendment. Hence, prays to allow this petition. The learned counsel for the respondents argued that this petition was filed with an malafide intention and to drag the proceedings. Hence, prays to dismiss the petition.

4. Case records perused. In this case the earlier the 4th respondent was stood as a 6th plaintiff and later she was transposed as a 4th defendant. To that the plaint was already amended. But, now the petitioners again come forward with this petition to amend the plaint for the same reason that in certain place the status of the 4th defendant was not changed. Though, the respondent counsel objected to dismiss the petition, this court find that allowing of this petition would not cause any prejudice to any of the parties as well as no change in cause of action. Therefore, this court in the interest of justice inclined to allow this petition.

In the result, the petition is allowed. No cost.

The order typed by me in my laptop and corrected and pronounced by me this 4th day of November 2022.

District Munsif-cum-Judicial Magistrate,
Natham.

Both side oral and documentary evidence : NIL

District Munsif-cum-Judicial Magistrate,
Natham.