

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI
KRISHNAGIRI DISTRICT**

**Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.
District Munsif, Uthangarai**

On this Monday, the 26th day of February 2024

I.A.No. 09 of 2024 in O.S.No. 270 of 2004

TNKI130000062004

1. Dhanapal (Died) ...Plaintiff

2. Mangai

3. Madhu

4. Suresh

5. Tamil ...Petitioners / Proposed Parties

/versus/

1. Duraisami @ Govindhan

2. Dharman (Died)

3. Alagesan

4. Nadaraj (Died)

5. Kasiyammal

6. Renuka

7. Nandhini

8. Ashwin ...Respondents 1 to 8 / Defendants

9. Savithri

10. Palani

11. Gokul @ Kutti ...Respondents 9 to 11 / Proposed Parties

This interlocutory application came up before this Court on 22.02.2024 for final hearing in the presence of advocate Thiru. S. Moorthi, the learned counsel for the petitioners and advocate Thiru. E. Lakshmanan, the learned counsel for the respondents 1 to 10 and 11th respondent called absent and set *ex parte* and upon hearing both sides and on perusal of records and having stood over for consideration till date, this Court delivers the following:

ORDER

The application has been filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 for amendment of the plaint.

The averments of the petitioners in brief:

1. The petitioners herein are the legal heirs of the deceased plaintiff and aver that the deceased plaintiff instituted this suit for declaration and perpetual injunction against the defendants. The petitioners aver that during the pendency of the suit, the plaintiff Dhanapal died on 14.03.2016 leaving behind the petitioners as his legal heirs and I.A.No. 05 of 2023 was filed to implead the petitioners as the parties to the suit which was allowed on 30.11.2023, however, the 2nd defendant also died on 30.08.2021 leaving behind the proposed defendants as his legal heirs whom were also allowed to be impleaded as parties to the suit by order dated 30.11.2023 in I.A.No. 08 of 2023. Hence, it is necessary to amend the plaint accordingly and the petitioners pray for allowing this application.

The averments of the respondents in brief:

2. The respondents deny that averments of the petitioners in toto and admit that the 2nd defendant died on 30.08.2021. The respondents aver that the plaintiff had died 7 years ago and petitioners have belatedly filed this application only to prolong the suit and the 2nd defendant died about 2 years ago for which the petitioners have not taken any step except filing this application after 2 years. Hence, the respondents seek for dismissal of the application.

Point for consideration:

3. Whether this application is liable to be allowed?

Evidence:

4. Neither of the parties to this application has adduced any oral or documentary evidence.

Discussion:

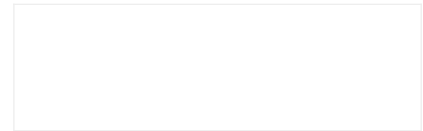
5. This Court, having considered the arguments advanced on both sides and thoroughly examined the pertinent case records, proceeds to delineate its findings by the following discussion. This suit has been instituted for declaration of title of the deceased plaintiff over the 1st scheduled property and perpetual injunction restraining interference in the usage of 4/8 right in the 2nd scheduled property and for relief of partition and separate possession of 4/8 share of the 2nd scheduled property. A perusal of the suit proceedings would show that during the pendency of the suit the 4th defendant died and steps were taken by the deceased plaintiff in I.A.No. 360 of 2014 to amend the application to include the legal representatives of the deceased 4th defendant. However, even after the order dated 23.06.2016 in I.A.No. 360 of 2014 permitting the deceased plaintiff to amend the plaint, the deceased plaintiff did not take any step to file the amended copy of the plaint and to carry out the amendments in the original plaint, and hence, the suit was dismissed for default on 06.10.2016. The legal representatives of the deceased plaintiffs approached this Court with application under I.A.No. 02 of 2023 to set aside the dismissal order which came to be allowed on 23.11.2023. This Court, by its order dated 23.11.2023, also allowed the petitioners to implead themselves as the parties to the suit to contest in-the stead of the deceased plaintiff by order dated 23.11.2023 in I.A.No. 05 of 2023 and also allowed the legal representatives of the deceased 2nd defendant to be impleaded as parties by order dated 23.11.2023 in I.A.No. 07 of 2023. A perusal of the proposed amendments shows that they are nothing but amendments that are necessary to carry out the orders passed by this Court in the aforesaid interlocutory applications. The respondents have resisted this application only on the grounds of delay and the objections are only

perfunctory in nature. Hence, this Court is inclined to allow this application without any cost.

Result:

6. ***As a result, this application is allowed. No cost.***

This order was dictated to the steno-typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 26th day of February 2024.



District Munsif
Uthangarai

Annexure

Petitioner side evidence

Petitioner side Witnesses: Nil

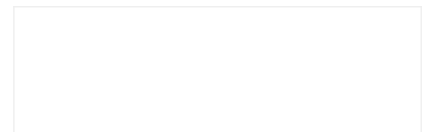
Petitioner side Exhibits: Nil

Respondent side evidence

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

Court Documents: Nil



District Munsif
Uthangarai