

**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 Tuesday, the 26th day of March 2024

I.A.No. 10 of 2024 in O.S.No. 50 of 2013

TNKI13-000008-2013

Ramesh

...Petitioner / Plaintiff

/versus/

1. Murugan
2. Suresh
3. Annamalai (Died)
4. Santhagowri
5. Selvi
6. Chithra
7. Madhavan
8. Kalidhas

...Respondents / Defendants

This interlocutory application came up before this Court on 26.03.2024 for final hearing in the presence of advocate Thiru. S. Moorthi, the learned counsel for the petitioner and advocate Thiru. G. Vajjiravel, the learned counsel for the respondent 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 petitioner in brief:

1. The petitioner herein is the plaintiff in the suit filed for partition and perpetual injunction against the defendants. The petitioner avers that during the pendency of the suit, the 3rd defendant namely Annamalai died on 06.05.2021 and the legal heirs of the deceased 3rd defendant are the plaintiff, the 1, 2 defendants and one Kanchana.

The petitioner avers that the plaintiff, the 1, 2 defendants are already parties in the suit, and I.A.No. 09 of 2023 was filed under Order XXII Rule 4 of the Code of Civil Procedure, 1908 to implead the legal heir who is the daughter of the deceased 3rd defendant namely Kanchana as party to the suit which was allowed on 05.12.2023. Hence, it is necessary to amend the plaint accordingly and the petitioner prays for allowing this application.

The averments of the respondent in brief:

2. The respondents deny that averments of the petitioner are false and frivolous. The respondents aver that the suit was filed for partition and perpetual injunction against the defendants. The respondents aver that during the pendency of the suit, the 3rd defendant namely Annamalai died on 06.05.2021 and the legal heirs of the deceased 3rd defendant are plaintiff, 1, 2 defendants and Kanchana. The respondents aver that the plaintiff, 1, 2 defendants are already mentioned in the suit, and I.A.No. 09 of 2023 is filed under Order XXII Rule 4 to implead the legal heir who is the daughter of the deceased 3rd defendant namely Kanchana as party to the suit which was allowed on 05.12.2023 and it is not necessary to amend the plaint. The respondents aver that the 3rd defendant died on 06.05.2021 and the petitioner filed this petition 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 partition and perpetual injunction. This application is filed to amend the plaint to implead the legal heir who is the daughter of the deceased 3rd defendant. A perusal of the case proceeding would show that the 3rd defendant died on 06.05.2021 and the same was intimated to this Court on 05.10.2023, and consequently, an application to implead the legal heir of the deceased 3rd defendant was filed as I.A.No. 09 of 2023 and was allowed by order dated 05.12.2023 under Order XXII Rule 4 of the Code of Civil Procedure, 1908. The respondents have admitted the date of death of the 3rd defendant and legal heirship of Kanchana as true and there is no dispute with regard to these. The only objection raised by the respondents are that this application is filed to prolong and delay the proceedings. The petitioners seek to amend the plaint only to add the daughter of the deceased 3rd defendant ordered to be impleaded in I.A.No. 09 of 2023. Since the death of the 3rd defendant and the legal heirship of the Kanchana are admitted, this Court is of considered view that the objection of the respondents is only perfunctory in nature and this Court is inclined to allow this application.

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 March 2024.

District Munsif
Uthangarai

Annexure

Petitioner side evidence

Petitioner side Witnesses: Nil

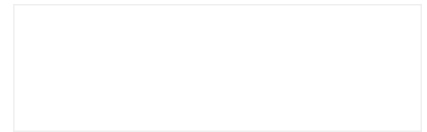
Petitioner side Exhibits: Nil

Respondent side evidence

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

Court Documents: Nil



District Munsif
Uthangarai