

**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 Wednesday, the 30th day of August 2023

**I.A.No. 08 of 2023 in O.S.No. 112 of 2013**

TNKI13-000045-2013

Santhi

...Petitioner / Plaintiff

/versus/

1. Manickam (Died)
2. Velu
3. Thirumal
4. Vasantha

...Respondents / Defendants

This interlocutory application came up before this Court on 30.08.2023 for final hearing in the presence of advocate Thiru. K. Murugan, the learned counsel for the petitioner and advocate Thiru. S. Moorthi, the learned counsel for the 4<sup>th</sup> respondent and advocate Thiru. G.M. Saravanan, the learned counsel for the 3<sup>rd</sup> respondent and later set *ex parte* for non-filing of counter and the notice to the 2<sup>nd</sup> respondent was dispensed with 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 7 of the Code of Civil Procedure, 1908 seeking leave to amend the plaint.

***The averments of the petitioner in brief:***

1. The petitioner herein is the plaintiff in the suit instituted for partition and perpetual injunction and aver that the father of the petitioner who is the 1<sup>st</sup> defendant namely Manickam died on 20.06.2020 and the son and daughter of the deceased 1<sup>st</sup> defendant namely the 2<sup>nd</sup> and the 3<sup>rd</sup> defendants are already parties to the suit. The



petitioner avers that the wife of the deceased 1<sup>st</sup> defendant namely Chandiramathi has has been added as a party to the suit by order dated 16.02.2023 in I.A.No. 07 of 2022 and plaint has to be amended accordingly to implead the proposed party. Hence, the petitioner prays for allowing this application to amend the plaint.

***The averments of the 4<sup>th</sup> respondent in brief:***

2. The respondent admits that the 1<sup>st</sup> defendant died on 20.06.2020 and that the 2<sup>nd</sup> and 3<sup>rd</sup> defendants are the son and daughter of the deceased 1<sup>st</sup> defendant and that the proposed party namely Chandramathi is the wife of the 1<sup>st</sup> defendant. The respondent avers that the petitioner has filed this application only to prolong the proceedings. The respondent avers that the power-agent of the 4<sup>th</sup> defendant namely Subramani was allowed to contest the suit on behalf of the 4<sup>th</sup> defendant by order dated 28.06.2023 in I.A.No. 04 of 2019, however, the petitioner has not included any amendment with respect to the power-agent of the 4<sup>th</sup> defendant and seeks for dismissal of the application.

***The non-filing of counter by the 3<sup>rd</sup> respondent:***

3. Sufficient opportunities were given to the 3<sup>rd</sup> respondent to file his counter and he failed to file counter and was set *ex parte* on 07.08.2023. Since the 2<sup>nd</sup> defendant was already set *ex parte* in the suit and remained absent throughout the proceedings, notice to the 2<sup>nd</sup> defendant was dispensed to avoid unnecessary delay in the proceedings.

***Point for consideration:***

4. Whether this application is liable to be allowed?



***Evidence:***

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

***Discussion:***

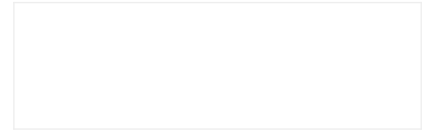
6. This Court heard both sides and perused case records. This suit has been instituted for partition and perpetual injunction restraining alienation of the suit properties and for declaration of a registered sale deed as null and void. During the pendency of the suit, the 1<sup>st</sup> defendant namely Manickam died on 20.06.2020 and a representation was made to this Court on 18.11.2020. Pursuant to the same, applications to implead the proposed party, along with condonation of the delay were filed and allowed by order dated 16.02.2023 in I.A.No. 07 of 2020 and not I.A.No. 07 of 2022 as averred by the petitioner. The 4<sup>th</sup> respondent has objected to this application primarily on the grounds of delay and not impleading power-agent of the 4<sup>th</sup> respondent. A perusal of the proposed amendments would show that they are consequential in nature to carryout the order of this Court dated 16.02.2023 passed in I.A.No. 07 of 2020. However, when clarification with respect to the non-impleading of the power-agent of the 4<sup>th</sup> respondent is sought to the learned counsel for the petitioner, the learned counsel undertook to file application for further amendments. Hence, considering the nature of proposed amendments being consequential and undertaking of the petitioner, this Court is of considered view that the respondent shall not be prejudiced in any way in allowing this application. Hence, this Court is inclined to allow this application without any cost.

***Result:***

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



This order was dictated to the typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 30th day of August 2023.



District Munsif  
Uthangarai

**Annexure**

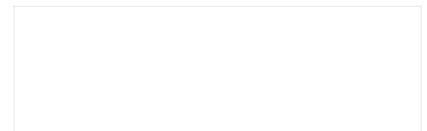
**Petitioner side evidence**

Petitioner side Witnesses & Exhibits: Nil

**Respondent side evidence**

Respondent side Witnesses & Exhibits: Nil

**Court Documents:** Nil



District Munsif  
Uthangarai