

**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 23rd day of April 2024

I.A.No. 11 of 2024 in O.S.No. 66 of 2016

TNKI13-000798-2016

1. Govindan
2. Ganesan (Died)
3. Subramani

...Petitioners / Plaintiffs

/versus/

1. Jadaiyan
2. Thirupathi
3. Suruttaiya Gounder
4. Rani
5. Lakshmi
6. Kuppu (Died)
7. Jaya
8. Parvathi
9. Periya Lingammal (Died)
10. Gudiyappan (Died)
11. Osarayan
12. Murugan
13. Ramakkal (Died)
14. Lingammal
15. Suresh
16. Veerapathiran
17. Minor. Boopathi*
18. Rajesh
19. Minor. Damodiran*
20. Minor. Sakthi*

...Respondents / defendants

(17th, 19th and 20th minor respondents are represented by Court Guardian)

This interlocutory application came up before this Court on 23.04.2024 for final hearing in the presence of advocate Thiru. S. Moorthi, the learned counsel for the petitioners and advocate Thiru. K. Murugan, the learned counsel for the 3rd and 4th respondents and advocate Thiru. G. Vajjiraval, the learned Court Guardian for the

17th, 19th and 20th respondents, the 6th and 10th respondents died and the 1st, 2nd, 5th to 16th and 18th respondents were set *ex parte* for non-appearance and upon hearing both sides and on perusal of records 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 seeking leave to amend the plaint.

The averments of the petitioner in brief:

1. The petitioners herein are the plaintiffs in the suit filed against the defendants for declaration and perpetual injunction. The petitioners aver that during the pendency of the suit, the 6th defendant namely Kuppu died on 27.01.2019 and the legal heirs of the deceased 6th defendant are his husband Chinnasami and her son Venkatesan, and aver that the said Chinnasami predeceased 6th defendant. The petitioners aver that an application was filed under Order XXII Rule 4 of the Code of Civil Procedure, 1908 to implead the son of the deceased 6th defendant as a party to the suit *vide* I.A.No. 03 of 2020 and the same was allowed on 17.08.2023. The petitioners aver that thereafter, the 10th defendant namely Gudiyappan also died on 07.11.2022, and the legal heirs of the deceased 10th defendant are his wife Kullammal and son Jayavel, daughter Jayasakthi. The petitioners aver that an application was filed under Order XXII Rule 4 of the Code of Civil Procedure, 1908 in I.A.No. 04 of 2020 to implead the legal heirs of the deceased 10th defendant as parties to the suit and the same was allowed on 17.08.2023. The petitioners aver that the 13th defendant namely Ramakkal also died on 10.08.2022, and an application was filed under Order XXII Rule 4 of the Code of Civil Procedure, 1908 in I.A.No. 10 of 2023 to implead the sons of the deceased 13th defendant namely Veerabathiran and Kumar as parties to the suit and the same was allowed on 23.11.2023. The petitioners aver that during the

pendency of the suit the 2nd plaintiff namely Ganesan died on 30.05.2023, and an application was filed under Order XXII Rule 3 of the Code of Civil Procedure, 1908 in I.A.No. 06 of 2022 to implead the legal heirs of the deceased 2nd plaintiff namely Amsa (wife), Selvi (daughter), Vedi (son) as parties to the suit and was allowed on 17.08.2023 and it is necessary to amend the plaint as per the orders, and hence, the petitioners pray for allowing this application and grant leave to amend the plaint.

The averments of the 3rd & 4th respondents in brief:

2. The respondents deny the averments of the petitioners in toto as false. The respondents aver that the application is filed only to prolong the proceedings and this application is liable to be dismissed. Hence, the respondents seek for dismissal of the application.

The averments of the 17th, 19th, 20th respondents in brief:

3. The minor respondents 17, 19, 20 were represented by court guardian who filed counter stating that the application filed contains false and frivolous allegations and the 6th defendant namely Kuppuppu died on 27.01.2019 and the 10th defendant died on 10.11.2020 and that the guardian has no objection in amending the plaint without any prejudice to the minor.

4. Notices to the respondents 1, 2, 5, 7, 8, 11, 14 to 16 were dispensed with since they were *ex parte* in the suit and to avoid delay of the proceedings since they remained absent through out the proceedings.

Point for consideration:

5. Whether this application is liable to be allowed?

Evidence:

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

Discussion:

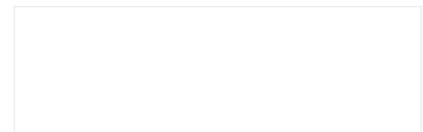
7. This Court, having considered the arguments advanced on both sides and thoroughly examined the pertinent case records, proceeds to delineate its findings by the following discussion. This suit has been filed for declaration and perpetual injunction restraining the respondents from interfering with the possession of the plaintiff. This application is filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking leave to amend the plaint to carryout orders passed in I.A.No. 03 of 2020, I.A.No. 04 of 2020, I.A.No. 06 of 2022 and I.A.No. 10 of 2023. A perusal of the case proceeding would show that the 6th defendant namely Kuppu died on 27.01.2019, and an application to implead the legal representatives of the deceased 6th defendant has been filed and numbered as I.A.No. 03 of 2020 and has been allowed by the order dated 17.08.2023 under Order XXII Rule 4 of the Code of Civil Procedure, 1908. Further, the 10th defendant namely Gudiyappan died on 07.11.2020 and an application to implead the legal representatives of the deceased 10th defendant has been filed and numbered as I.A.No. 04 of 2020 and has been allowed by order dated 17.08.2023 under Order XXII Rule 4 of the Code of Civil Procedure, 1908. Further, the 13th defendant namely Ramakkal died on 10.08.2022, and an application to implead the legal representatives of the deceased 13th defendant has been filed and numbered as I.A.No. 10 of 2023 and has been allowed by the order dated 23.11.2023 under Order XXII Rule 4 of the Code of Civil Procedure, 1908. Similarly, the 2nd plaintiff namely Ganesan died on 30.05.2023, and an application to implead the legal representatives of the deceased 2nd plaintiff has been filed and numbered as I.A.No. 06 of 2022 and has been allowed by the order dated 17.08.2023 under Order XXII Rule 3 of the Code of Civil Procedure, 1908. The 4th respondent has resisted this application that the averments by the petitioners in this application are entirely false. The other objection raised by the 4th respondent is that this application is filed to prolong and delay the proceedings. The 17th, 19th and 20th

respondents represented by the Court Guardian submitted no objection to amendments which are not adverse to the interest of the minors. The petitioners seek to amend the plaint only to add the proposed parties ordered to be impleaded in I.A.No. 03 of 2020, I.A.No. 04 of 2020, I.A.No. 06 of 2022 and I.A.No. 10 of 2023. Hence, this Court is of considered view that the amendments are only consequential in nature and the objections of the respondents are only perfunctory and this Court is inclined to allow this application without any cost.

Result:

8. ***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 23rd day of April 2024.



District Munsif
Uthangarai

Annexure

Petitioner side evidence

Petitioner side Witnesses: Nil

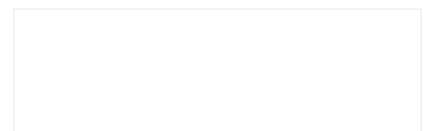
Petitioner side Exhibits: Nil

Respondent side evidence

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

Court Documents: Nil



District Munsif
Uthangarai