

**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 Thursday, the 17<sup>th</sup> day of August 2023

**I.A.No. 04 of 2020 in O.S.No. 66 of 2016**

TNKI13-000798-2016

1. Govindhan
2. Ganesan
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
10. Gudiyappan (Died)
11. Osarayan
12. Murugan
13. Ramakkal
14. Lingammal
15. Suresh
16. Veerapathiran
17. Minor. Boopathi\*
18. Rajesh
19. Minor. Damodiran\*
20. Minor. Sakthi\*

(17<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> minor respondents are represented by Court Guardian)

21. Venkatesan

....Respondents / Defendants

22. Kullammal
23. Jayavel
24. Jayasakthi

...Respondents / Proposed parties

This interlocutory application came up before this Court on 27.07.2023 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 3<sup>rd</sup> and 4<sup>th</sup> respondents and advocate Thiru. G. Vajjiraval, the learned Court Guardian for the 17<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> respondents, the 6<sup>th</sup> and 10<sup>th</sup> respondents died and the 1<sup>st</sup>, 2<sup>nd</sup>, 5<sup>th</sup> to 16<sup>th</sup> and 18<sup>th</sup> respondents were set *ex parte* for non-appearance and the respondents 22, 23, 24 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**

This application is filed under Order XXII Rule 4 of the Code of Civil Procedure, 1908 for impleading the legal representatives of the deceased 10<sup>th</sup> defendant as parties to the suit.

#### ***The averments of the petitioners in brief:***

1. The petitioners herein are the plaintiffs in the suit filed against the respondents / defendants for declaration and perpetual injunction. The petitioners aver that during the pendency of the suit, the 10<sup>th</sup> defendant namely Gudiyappan died on 07.11.2020 and his wife namely Kullammal and his sons Jayavel and Jayasakthi are his legal heirs and his wife Kullammal predeceased the 10<sup>th</sup> defendant and his sons Jayavel and Jayasakthi being his sole legal heirs have to be added as parties to the suit. The petitioners pray for allowing this application and to implead the legal representatives of the deceased 10<sup>th</sup> defendant as parties to the suit.

#### ***The non-appearance of the rest of the respondents:***

2. The notices to the proposed parties / respondents 22, 23, 24 were duly served and were called absent and set *ex parte* on 26.02.2021. The notices to the respondents 1, 5, 7, 8, 11, 12, 15, 16, 21 were duly served and were called absent and were set *ex parte* on 20.12.2022. The 9<sup>th</sup> and 13<sup>th</sup> respondents have died and separate applications were undertaken by the petitioners to implead their legal heirs in the suit. The

respondents 3, 4, 17, 19, 20 appeared through counsels but did not file any counter and remained absent throughout the proceedings.

***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 heard the petitioners side and perused case records. The suit is instituted for reliefs of declaration of title of the petitioners and consequential perpetual injunction and mandatory injunction to remove encroachment in the suit property. It was averred that the 10<sup>th</sup> defendant died on 07.11.2020 and the same was not disputed by the respondents and the relationship of the proposed parties is also not disputed by the respondents. The factum of the death of the 10<sup>th</sup> defendant and relationship of the proposed parties being not disputed by the contesting respondents who are relatives and the nature of the suit being declaratory, this Court of considered view that the legal representatives of the deceased 10<sup>th</sup> defendant have to be impleaded as parties to the suit to avoid multiplicity of proceedings. This Court is of view that rejecting this application would only result in further delay of the proceedings and cause greater hardship to both the parties to the suit. The proposed party remained absent and there is no dispute with regard to death of the defendant and his relationship with the proposed parties. Hence, in order to avoid multiplicity and delay of proceedings, this Court is inclined to allow this application without any cost.

***Result:***

6. ***As a result, this application is allowed. In the interest of justice no cost. The proposed parties are impleaded as parties to the suit.***

This order was dictated to typist and transcribed by her in computer and after rectification of mistakes, pronounced by me in open court on this 17<sup>th</sup> day of August 2023.

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