

**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 23rd day of November 2023

**I.A.No. 10 of 2023 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 (Died)
14. Lingammal
15. Suresh
16. Veerapathiran
17. Minor. Boopathi\*
18. Rajesh
19. Minor. Damodiran\*
20. Minor. Sakthi\*
21. Venkatesan

....Respondents / Defendants

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

22. Veerapathiran
23. Kumar

...Respondents / Proposed Parties

This interlocutory application came up before this Court on 15.11.2023 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. Vajiraval, 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 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 XXII Rule 4 of the Code of Civil Procedure, 1908 for impleading the legal heirs of 13<sup>th</sup> defendant as defendants to the suit.

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

1. The petitioners herein are the plaintiffs in the suit filed against the defendant for declaration and when the suit was pending, the 13<sup>th</sup> defendant namely Ramakkal died on 12.08.2022. The petitioners aver that the legal heirs of the 13<sup>th</sup> defendant was her husband namely Veerabathran and her son Kumar. The petitioners aver that the legal heirs ought to have been impleaded as parties, however, there has been a delay of 48 days and the delay is not will full and pray for allowing this application.

#### ***The averments of the 3<sup>rd</sup> & 4<sup>th</sup> respondents in brief:***

2. The 3<sup>rd</sup> & 4<sup>th</sup> respondents deny the averments of the petitioner in the application in toto and aver that this application has been filed based on false averments and seeks for dismissal of the application.

#### ***The non-appearance of the proposed parties:***

3. The notice to the proposed parties were duly served and the proposed parties entered appearance on 29.09.2023 and sought time for engaging counsel. However,

there was no appearance thereafter on 09.10.2023 and the proposed parties were called absent and set *ex parte* on 09.10.2023. Notices to the respondents 1, 2, 5, 7, 8, 10, 11, 14 to 16 were dispensed to avoid delay of the proceedings since they were set *ex parte* in the suit and remained absent through out the proceedings.

***The averments of the 17<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup> respondents in brief:***

4. The minor respondents 17, 19, 20 were represented by court guardian filed counter stating this application has been filed with false and frivolous allegations and that the minor respondents have no objection in impleading the legal heirs of the deceased defendant without any prejudice to the minors.

***Point for consideration:***

5. 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 both sides and perusal case records. This suit has been instituted for declaration of title of the plaintiff and for mandatory injunction directing the 3<sup>rd</sup> and 4<sup>th</sup> defendants to remove encroachment and for recovery of possession. When the suit was pending the 13<sup>th</sup> defendant was reported to have died on 12.08.2022 for the notice in I.A.No. 07 of 2022 and the notice to the 13<sup>th</sup> defendant was returned as died with the death certificate of 13<sup>th</sup> defendant. This application has been filed for impleading the legal heirs of the 13<sup>th</sup> defendant and the contesting defendant have not raised any issue with respect to the death of the 13<sup>th</sup> defendant or legal heirship of the proposed parties. The proposed parties have also not appeared to contest or dispute the death of the 13<sup>th</sup> defendant or legal heirship.

This suit has been filed for declaration of title, and hence, it is a settled property of law that all persons who have or claims to have right in respect of the suit property have to be impleaded as parties to the suit. Since, there was not objection raised with respect to the death of the 13<sup>th</sup> defendants and the legal heirship of the proposed parties, this court is inclined to allow this application.

***Result:***

***6. As a result, this application is allowed. No cost. The proposed parties are impleaded as defendants to the suit.***

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 November 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