

**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 Friday, the 29th day of September 2023

I.A.No. 03 of 2023 in O.S.No. 43 of 2017

TNKI13-001235-2017

1. Mayakkannan
2. Venkatachalam

...Petitioners / Plaintiffs

/versus/

Govindan

...Respondent / Defendant

This interlocutory application came up before this Court on 29.09.2023 for final hearing in the presence of advocate Thiru. N.K. Murugan, the learned counsel for the petitioners and advocate Thiru. Shanmuga Sundaram, 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 seeking leave to amend the plaint.

The averments of the petitioners in brief:

1. The petitioners herein are the plaintiffs in the suit instituted against the respondents for declaration and injunction. The petitioners aver that the daughter of the defendant namely Saraswati had filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 in I.A.No. 02 of 2022 which was allowed by this Court by order dated 25.04.2023. The petitioners aver that it is necessary to amend the plaint accordingly, and hence, pray for allowing this application.

The averments of the respondent in brief:

2. The respondent admit that the daughter of the respondent namely Saraswathi filed an application in I.A.No. 02 of 2022 to implead herself as a defendant in the suit, and that the same was allowed by this Court on 25.04.2023. The respondent avers that the said Saraswathi is a proper and necessary party to this amendment application and without impleading the said Saraswati, the present application is liable to be dismissed, and the details of the amendments are not correct, and hence, seeks 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 heard both sides and perused case records. This application is filed by the plaintiff seeking leave to amend the plaint. A perusal of the amendments would show that the petitioner is seeking to amend the plaint to include the proposed party namely Saraswati who was ordered to be impleaded in the suit by order dated 25.04.2023 in I.A.No. 02 of 2022. The objection raised by the respondent is that the proposed party is not added as a party to this application, and that the amendments are incorrect. The amending of the plaint is a matter adjudicated between the original plaintiff and the defendants already on record, and any representation by the proposed party regarding the matters in the suit could be heard only after amending the plaint and impleading the proposed party in the suit. Further, the proposed amendments are only in nature to carry out the order of this Court dated 25.04.2023 in I.A.No. 02 of

2022. Hence, this Court is of the considered view that the proposed party is not a necessary party to this application, and the objections raised are only perfunctory in nature. Hence, this Court is inclined to allow this application.

Result:

6. ***As a result, this application is allowed without any 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 29th day of September 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