

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL**

Present: **Thiru. R.Sundara Kamesh Marthandan, M.L.,**
Principal District Munsif, (FAC) Nagercoil.

Monday, on this the 24th day of July 2023

I.A. No.12 of 2022

in

O.S. No. 137 of 2019

1. Arunkumar

2. Narayanan(strike out of 2nd Plaintiff)

3. S. Rajagopal

... Petitioners/Plaintiffs

-Vs-

Arulmighu Devi Sri Mutharamman Temple,
Pulavarvilai, Nagercoil,
Kanyakumari District, Rep. by its
Managing Committee through

1. Selvarajan

President

2. Perumal (died)

Secretary

3. Gopalakrishnan

Treasurer

4. Pro. Addl. Subramonian

5. Pro. Addl. M.R.Nagarajan

... Respondents/Defendants

This Petition came up before me on 19.06.2023 for final hearing in the presence of Mr. T.Chenthil Moorthy, Advocate for the Petitioners/Plaintiffs and Mr. K.Anandh, Advocate for the Respondents/Defendants and upon hearing the Petitioners' and Respondents' Counsel and upon perusing the case records and having stood over for consideration till this day, this Court hereby delivers the

following:

ORDER

1. The Petitioner had filed the above Petition under Order I Rule 10(2) and section 151 CPC, seeking an strike out name of the 2nd Plaintiff T. Narayanan and add the name of S. Raja Gopal son of Shanmugam Nadar as additional 3rd Plaintiff.

2. The Petitioner had stated that, the Petitioner had filed the above suit in connection with the management of the 1st defendant temple and after filling the above suit. The 2nd Plaintiff was not in a position to conduct the case for unavoidable circumstances and then the 2nd Plaintiff send a registered letter to the 1st Plaintiff on 10.03.2022, to that effect. Hence the Petitioner had come up with the above Petition.

3. The Respondents 1 & 3 have filed counter stating that the above Petition is not maintainable in law and on facts. The above Petition under I Rule 10(2) CPC envisaging striking of Plaintiff or defendant in the letter written by the 2nd Plaintiff to the 1st Plaintiff. The 2nd Plaintiff categorically stated that he has been misled by the 1st Plaintiff and his signature was obtained without consent to conceal the same the 1st Plaintiff's had filed the above Petition. With regard to the prayer for impleading, the 3rd Plaintiff the provision quoted namely, Order I Rule 10 is not proper. The proposed 3rd Plaintiff had not filed any application to implead him as additional 3rd Plaintiff. Since the above suit has been filed under Order 1 Rule 8, the proposed 3rd Plaintiff proposed not opted to

get himself in the above suit. Even after publication of notice, without following due process of law. The 3rd Plaintiff had cannot be impleaded in the suit. The above Petition lacks bonafides and procedure irregularity and the same is liable to be dismissed.

4. The point for consideration is whether the above petition has to be allowed or not?

5. Admittedly the suit has been filed by Plaintiffs 1 & 2 now that the 1st Plaintiff had come up with the above Petition seeking to struck off the 2nd Plaintiff and incorporate the name of the proposed 3rd Plaintiff to substantiate his claim. The 1st Plaintiff had stated that for unavoidable circumstances. The 2nd Plaintiff would not prosecute the suit. On the other hand, the respondents 1 & 3 by filed counter stating that the 2nd Plaintiff sent letter stating that the 1st Plaintiff had misled the 2nd Plaintiff and obtained his signature without his concerned and on misleading him. Though both the Petitioner and respondent have reversed into letter dated 10.03.2022, execute written by the 2nd Plaintiff. The said letter was not exhibited in the above Interlocutory application.

6. As far as the prayer for striking of the 2nd Plaintiff, the above Petition has been filed by the 1st Petitioner alone. The 2nd Petitioner though shown as party in the cause title, he is stated to have been supported by the affidavit of the 1st Petitioner alone. Since the above suit has been filed by two persons, the two under representative capacity. When the one among the Plaintiffs 2 & 3 wants to strike the other necessarily. The other Petitioner/other Plaintiff has to be shown

as respondents. Similarly, the proposed party move his sought to be impleaded will be shown as respondents in the cause title. The said procedure has not been complied with.

7. If the 2nd Plaintiff has to be struck off any order passed allowing the above Petition will prejudice him. In such circumstances, without arraying the 2nd Plaintiff as partly respondent and without exhibiting the alleged letter dated 10.03.2022. The above Petition is not maintainable.

In the result, the above Petition is dismissed. No cost.

Dictated to the Steno typist, and typed by her, directly in Computer corrected and pronounced by me in Open Court this, the 24th day of July, 2023.

Principal District Munsif, (FAC)
Nagercoil.

Petitioners side witnesses and documents :- Nil

Respondents side witnesses and Documents :- Nil

Principal District Munsif, (FAC)
Nagercoil.

Fair/ Draft Order
I.A.No.12 of 2022
in
O.S.No.137 of 2019
Date: 24.07.2023.
PDM, Nagercoil.