

In the Court of Additional Subordinate Judge at Kanchipuram
Present: Tmt.K. Sudharani, M.L.,
Additional Subordinate Judge,
Monday, the 10th day of February 2020.
I.A.5/2020 in I.A.155/2019 in O.S.No.16/2010

Sivaprakasha Sri Veeraswara
Desikendra Swamigalu @
Swami chidabhanada

...Petitioner/Plaintiff

Vs.

1.B.Easwariah (died)
2.E.Gayathri,
3.E.Thiyagarajan
4. E.Subash
5. E.Prabu
6. E.Jayanthi

...1st respondent

...Respondents 2 to 6/Proposed parties

This petition is coming on this day 10.02.2020 for hearing before me in the presence of M/s.M.Baalakrishnan, R.Haribabu and P.Ezhilarasi Advocates for Petitioner and Thiru.K.Varadhan Advocate for respondents and upon hearing the arguments on both side and having stood over for consideration till this day this court delivered the following

ORDER

This petition is filed under Order 22 Rule 4 and Section 151 of C.P.C. to recognize the respondents 2 to 6 as legal heirs of the deceased 1st respondent B.Easwariah and implead them as respondents 2 to 6 in the above application in I.A.No.155/2019 and defendants 2 to 6 in the suit O.S.No.16/2010 and to pass such or other orders.

2. Petition averments are as follows:

The petitioner states that petitioner is the Madathipathy of Kanchipuram branch mutt of plaintiff mutt from 22.01.2007. Thereafter petitioner was appointed as power agent of plaintiff mutt as per power deed dated 21.04.2008. The petitioner as Madathipathy of plaintiff's mutt filed the above suit. The petitioner was examined as P.W.1. Subsequently as per letter dated 18.12.2017 the petitioner resigned his power of attorney. Thereafter one Gopi was appointed as power agent of plaintiff's mutt on 18.01.2018. The petition filed by Gopinath to recognize him as Power agent of plaintiff's mutt was dismissed on 20.07.2018. The petitioner subsequently was appointed as power agent of plaintiff's mutt through power deed dated 20.12.2018. The petitioner also had filed a petition to recognize him as power agent of plaintiff's mutt. Under these circumstances the sole defendant died on 22.11.2019 leaving behind the proposed respondents/defendants 2 to 6. The proposed parties are necessary parties to the above suit. Therefore prays to bring the proposed parties as legal heirs of deceased Easwariah in I.A.155/2019 and in O.S.16/2010.

3. The Respondent's Counter averments are as follows:

The respondent states that the petitioner had also resigned his power. Therefore petitioner has no locus standi to file the above petition. The above suit was filed by Peedathipathy. There is no branch mutt at Kanchipuram. Only has a branch office. Hence the petitioner cannot represent branch mutt as the power agent. Unless

and until in I.A.155/2019 is been decided the above petition is not maintainable. Therefore prays to dismiss the petition.

4. Point for consideration :

Whether this petition is to be allowed or not?

5. On Points:

According to the petitioner the petitioner is the actual power agent of Kanchipuram branch mutt through power deed dated 20.12.2018. Whether petitioner has locus standi to represent plaintiff's mutt or not can be decided in the trial. It is revealed that deceased 1st respondent/1st defendant with his family residing in suit property which belongs to plaintiff's mutt. The deceased 1st defendant had claimed right to reside in the suit property. Above suit is for vacant possession of suit property and damages for unlawful occupation of suit property. The controversy in the above issue cannot be decided without legal heirs of deceased 1st defendant. The legal heirs of 1st respondent/1st defendant are necessary parties to the above suit. No prejudice will be caused to the respondent. In the interest of justice petition is allowed.

In the result petition is allowed.

Dictated to the Shorthand writer, typed by her, corrected and pronounced by me in open court, this the 10th day of February 2020.

Sd./-K.SUDHARANI,

Additional Subordinate Judge,
Kanchipuram.

Exhibits and Witnesses on both side: NIL.

Sd./-K.SUDHARANI,

A.S.J