

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF KANCHEEPURAM  
KANCEEPURAM DISTRICT**

**PRESENT: Tmt.R. Rajeswari,B.Com.,L.L.M.,  
Principal District Munsif, Kanchipuram**

On Tuesday, this the 14<sup>th</sup> day of February 2023

**IA.No.4 of 2022**

In

**O.S.No.23 of 2018**

V.Manavalan

..Petitioner/Plaintiff

/Versus/

1.V.Mangalakshmi (Died)

2. V.Radhakrishnan

...Respondents/Defendants

3. R.Usha

4. M.Bhuvaneshwari

...Respondents/ Proposed  
Defendants

This petition has come up on 30.01.2023 for final hearing before me in the presence of Thiru.P.K.Thevarajan, advocate for the petitioner and Tmt.N.Durga Kamatchi, advocate for the respondents and upon hearing the arguments of both sides and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

**ORDER**

1. This petition is filed under Order 6 rule 17 of CPC to amend the plaint

2. The case of the petitioner as stated in his affidavit is as follows:-

The petitioner submitted that the petitioner/plaintiff filed suit for declaration of the cancellation of settlement deeds against respondents/defendants. During the pendency of the above suit the 1<sup>st</sup> respondent died on 16.11.2019 due to aged illness. The proposed party is the available legal heir of the deceased 1<sup>st</sup> respondent. As a consequence the suit has to be amended as per the petition mentioned particulars of amendment otherwise the petitioner will be put to irreparable loss and injury. Hence this petition.

3. The 2<sup>nd</sup> respondent filed his counter and the gist of the same is as follows:-

The respondent denies all the allegations stated except those that are specifically admitted herein and the petitioner is put to the strict proof of the same. The respondent submitted that the suit property was executed by the 1<sup>st</sup> defendant, who was the mother of both petitioner and the respondents, infavour of 2<sup>nd</sup> respondent through the settlement deed via Doc.No.1887/2017 dated 04.07.2017 and the petitioner without having any right towards the property filed the suit for declaration of cancellation of the settlement deed as null and void against the respondent only to disturb the peaceful enjoyment of the property by the respondent. The settlement is made between 1<sup>st</sup> and 2<sup>nd</sup> respondents and the suit for

declaration of cancellation of the settlement deed as null and void has been filed against them only. Hence there is no necessity of impleading the 3<sup>rd</sup> and 4<sup>th</sup> respondents as the legal heirs of the deceased 1<sup>st</sup> respondent and which was made only to drag on the suit and which is nothing a delaying tactics. The petitioner is approaching with unclean hands by suppressing the real facts and filed the above petition. Hence this petition may be dismissed.

4. The point for consideration in this petition is whether this petition is to be allowed or not.

**The Point:**

5. The petitioner counsel argued that the suit was filed for declaration of the cancellation of settlement deeds against respondents/defendants. During the pendency of the above suit the 1<sup>st</sup> respondent died on 16.11.2019 due to aged illness. The proposed party is the available legal heir of the deceased 1<sup>st</sup> respondent. As a consequence the suit has to be amended as per the petition mentioned particulars of amendment otherwise the petitioner will be put to irreparable loss and injury. Hence the petitioner counsel prayed to allow this petition.
6. The respondents counsel argued that the suit property was executed by the 1<sup>st</sup> defendant, who was the mother of both petitioner and the respondents, infavour of 2<sup>nd</sup> respondent through the settlement deed via Doc.No.1887/2017 dated 04.07.2017 and the petitioner without

having any right towards the property filed the suit for declaration of cancellation of the settlement deed as null and void against the respondent only to disturb the peaceful enjoyment of the property by the respondent. The settlement is made between 1<sup>st</sup> and 2<sup>nd</sup> respondents and the suit for declaration of cancellation of the settlement deed as null and void has been filed against them only. Hence there is no necessity of impleading the 3<sup>rd</sup> and 4<sup>th</sup> respondents as the legal heirs of the deceased 1<sup>st</sup> respondent. Hence the respondents counsel prayed to dismiss this petition.

7. Heard, records perused. The petition is filed by the Plaintiff U/O 6 Rule 17 to amend the plaint as per the affidavit by the petitioner/plaintiff.
8. The petitioner / plaintiff filed this suit for declaring that the settlement deed dated on 04.07.2017, Reg.No.1887/2017 at the Office of the S.R.O Walajabad as null and void.
9. The learned counsel for the respondent submitted that the settlement is made between 1<sup>st</sup> and 2<sup>nd</sup> respondents and the suit for declaration of cancellation of the settlement deed as null and void has been filed against them only. Hence there is no necessity of impleading the 3<sup>rd</sup> and 4<sup>th</sup> respondents as the legal heirs of the deceased 1<sup>st</sup> respondent. Further this contention cannot be decided in a petition for amendment and the same is matter a for trial. The

respondent will be given opportunity to put forth all her contentions and it is highly premature to go into all these disputed question of facts and law in this petition. However, based on the affidavit, this court is of the view that if the petition is allowed, the defendant is no way to cause injury and no prejudice also will be caused and also the stage of the suit is trial to be commenced.

10. Therefore, in the scope of the provision U/O 6 Rule 17 this court is hereby allowed the application without costs.

Dictated to the steno-typist, who directly typed the same in her computer, corrected and pronounced by me in open court, this the 14<sup>th</sup> day of February 2023

Sd/R.Rajeswari  
PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM