

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

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

On Friday, this the 21st day of July 2023

EA.No.4 of 2022
In
E.P.No.90 of 2017
in
O.S. 47 of 1986

A/m Ekamabaranather Devasthanam
Rep by its Executive Officer
Kancheepuram

...Petitioner/Plaintiff/Decree Holder

/Versus/

1. Nataraja Mudaliar (Died)
2. Arimuthu Naicker
3. Suleka (Died)
4. Amaravathi Ammal
5. Kumar
6. D.Shanmugam
7. Vasanthi
8. Dinakaran
9. Chandiran

..Respondents/Defendants/Judgment
Debtors

10. A.Premnivas

...Respondent/Legal Heirs of 3rd
defendant

This petition having coming up on 27.04.2023 for final hearing before me in the presence of Mr.V.Tamilarasu, advocate for the petitioner and respondents 1, 3, 4 and 7 are died and Thiru.M.Sekaran, Advocate for the 6th respondent and summon served to the respondents 2 and 8 and

the 2 and 8 respondents are called absent and set ex parte and private notice send to 9th respondent has been returned with endorsed that the 9th respondent died and Thiru.A.K.Ramesh, advocate for the 10th defendant and 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 Section 50 of CPC to permit the petitioner to implead the 10th respondent for the legal heirs of the deceased 3rd respondent.
2. The case of the petitioner as stated in his affidavit is as follows:-

The petitioner submitted that the temple had filed the suit for recovery of possession against the respondents/judgment debtors and the same was decreed by this Court on 30.04.2003. After decreed the suit the temple has filed the execution petition for recovery of the suit property and the same was pending before this Court. On the above case the respondents are ex parte except the 3rd defendant, alone to context the execution petition. During the pending of the above said execution petition the 3rd respondent/defendant Suleka died intestate on 27.09.2020 leaving behind her legal heirs namely A.Premnivas, who is the son of the deceased Suleka. The above said legal heirs particular is now only

known to the petitioner. Hence this petition.

3. The 10th respondent filed his counter and the gist of the same is as follows:-

The respondent submitted that the suit itself has been decreed on 30.04.2003 and this E.P is preferred only during 2017 which is purely time barred and barred by Limitation on that score also the petition is liable to be dismissed. The petitioner is not entitled for the relief as prayed in the petition before this court. There are no merits or bonafides or cause of action and there is no prima facie or balance of convenience in filing this 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. Heard and perused the records.
6. In the affidavit the petitioner stated that the temple had filed the suit for recovery of possession against the respondents/judgment debtors and the same was decreed by this Court on 30.04.2003. After decreed the suit the temple has filed the execution petition for recovery of the suit property and the same was pending before this Court. The above case the respondents has called exparte except the 3rd defendant, alone to context the execution petition. During the

pending of the above said execution petition the 3rd respondent/defendant Suleka died intestate on 27.09.2020 leaving behind her legal heirs namely A.Premnivas, who is the son of the deceased Suleka. Hence the petitioner counsel prayed to allow this petition.

7. The respondent stated in his counter that the suit itself has been decreed on 30.04.2003 and this E.P is preferred only during 2017 which is purely time barred and barred by Limitation on that score also the petition is liable to be dismissed. This petitioner filed this petition at the stage of orders in the above EP. There are no merits in this petition.
8. After hearing the both side enquiry, this court has carefully perused the averments of affidavit of petitioner and counter filed by the respondent, the main execution proceedings was instituted to order for delivery of the property mentioned in the schedule under Order XXI Rule 34 and 35 CPC. The above case was posted to enquiry. At the time of enquiry, the 3rd respondent died on 27.09.2020 and hence the petitioner is taking steps to implead the 10th respondent as legal heir of the 3rd respondent in this petition. The 10th respondent is a necessary party to this petition. In these circumstances, this court is come to conclusion that this petition is allowed accordingly.

9. In the result, this petition is allowed. No Costs.

Dictated to the steno-typist, who directly typed the same in her
Computer, corrected and pronounced by me in open court, this the
21st day of July 2023

Sd/-R.Rajeswari,
Principal District Munsif,
Kancheepuram.