

**IN THE I ADDITIONAL DISTRICT COURT,
MADURAI.**

**Present: Tmt.J.Tamilarasi, B.Com., M.L.,
I Additional District Judge,
Madurai.**

Monday, the 11th day of September 2023

**I.A.No.06/2021
in
Appeal Suit No.35/2019**

1. Manikandan,
S/o.Late.Irulappan,
Door No.2, West Street,
Varichiyur, Madurai.
2. Easwari,
D/o.Late.Irulappan,
W/o.Vasu,
Door No.12B, Munish Nagar,
Hossur – 635 109.
3. Souri,
D/o.Late.Irulappan,
W/o.Madhavan,
Puthupatti Melur,
Arch Idhayanallur,
Sivagangai.
4. Bakiyam,
W/o.Late.Irulappan,
Door No.2, Varichiyur,
Madurai.

... Petitioners / Appellants

Vs.

1. Lakshmi Ammal (Died),
W/o.V.Karunakara Pandian,
D/o.Muthusamy,
Door No.2/781, Maruthupandiyar Street,
Tahsildhar Nagar, Madurai – 20

Irulappan (Died)
S/o.Muthusamy,
Kalimangalam Road,
Varichiyur, Madurai.

2. Mookkammal (Died),
W/o.Late.Irulappan
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.
3. Manikandan,
S/o.Late.Irulappan,
No.104, Paraiyankulam,
Varichiyur Post, Madurai.
4. Muthulakshmi,
D/o.Late.Irulappan,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.

Ramachandran (Died),
S/o.Late.Irulappan,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.

5. Nagarathinam,
S/o.Late.Irulappan,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.
6. Sathishkumar,
S/o.Late.Irulappan,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.
7. Angamuthu,
S/o.Late.Irulappan,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.

8. R.Pushparani,
W/o.Late.Ramachandran,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.
9. Gurunathan,
S/o.Late.Ramachandran,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.
10. Rajeshwari,
D/o.Late.Ramachandran,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.
11. Angaleshwari,
D/o.Late.Ramachandran,
No.3/135-C, Paraiyankulam,
Varichiyur Post, Madurai.
12. V.Karunakara Pandian,
Door No.2/781, Maruthupandiyar Street,
Tahsildhar Nagar, Madurai – 20.
13. K.Vasu,
S/o.V.Karunakara Pandian,
Door No.2/781, Maruthupandiyar Street,
Tahsildhar Nagar, Madurai – 20.
14. K.Palanivel,
S/o.V.Karunakara Pandian,
Door No.2/781, Maruthupandiyar Street,
Tahsildhar Nagar, Madurai – 20.
15. Murugan,
S/o.V.Karunakara Pandian,
Door No.2/781, Maruthupandiyar Street,
Tahsildhar Nagar, Madurai – 20.

16. Rajendran,
S/o.V.Karunakara Pandian,
Door No.2/781, Maruthupandiyar Street,
Tahsildhar Nagar, Madurai – 20.
17. Arunadevi,
D/o.V.Karunakara Pandian,
Door No.2/781, Maruthupandiyar Street,
Tahsildhar Nagar, Madurai – 20. ...Respondents/Respondents.

**Impleaded as per order in I.A.No.250/2021 dated 18.08.2022
Amended as per order in I.A.No.314/2022 dated 28.10.2022**

This petition coming up before me on 29.08.2023 in the presence of Thiru.M.Rajaraman, Advocate for the Petitioners/Appellants, whereas Respondents 3 to 17 called absent set exparte and Respondents 1 & 2 being dead, after hearing the arguments on the side of the petitioners, upon perusing the case records and having stood over for consideration till this date, and this court passed the following

ORDER

This petition is filed by the petitioners / appellants under Order VI Rule 17 and Sec.151 of CPC praying to order for amendment of appeal as detailed in the petition.

2) The brief contents of the petition and accompanying affidavit filed by the petitioners/appellants is as follows:-

This petition is filed by the 1st petitioner on his behalf and on behalf of other petitioners. The petitioners have filed appeal against the Judgment and Decree in O.S.No.103/2008 passed by learned Principal Sub Judge, Madurai on 22.11.2018. The 2nd respondent namely, Mookkammal had died on 07.11.2020,

leaving behind the respondents 3 to 11 as her legal heirs. A Memo was filed on 15.12.2020 stating that the 2nd respondent has died. The legal heirs of the deceased 2nd respondent are already parties in this case and the right to sue on the death of the 2nd respondent survives on respondents 3 to 11. There is a clerical mistake in the prayer column of the grounds of appeal and the same has to be suitably amended. The said amendment is only consequential and the respondents may not have any valid objection for the same. Unless this petition is allowed, the petitioners would be put into irreparable loss and hardship. Hence, this petition.

3) Respondents 3 to 17 have left the petition for exparte whereas, Respondents 1 & 2 are dead.

4) Heard.

5) Now, the point for consideration is whether this petition to be allowed or not?

6) **POINT:-**

This petition is filed by the petitioners / appellants under Order VI Rule 17 and Sec.151 of CPC praying to order for amendment of appeal as

detailed in the petition. This petition has been filed to amend the main appeal as detailed in the petition. The first amendment relates to adding of the word “died” after the name of the 2nd respondent in the short cause title and long cause title of the appeal. The second amendment relates to replacement of the words “decree the suit as prayed for” as “dismiss the suit” in the prayer column of the appeal. The first amendment is consequential in nature due to the death of 2nd respondent whereas, the second amendment is due to typographical error. Hence, this Court is inclined to allow this petition.

In the result, this petition is allowed.

Dictated to the Stenographer, typed by her in the computer, corrected and pronounced by me in the open court on this the 11th day of September 2023.

I Additional District Judge,
Madurai.

In the Court of
I Additional District Court,
Madurai.
I.A.No.06/2021
in
A.S.No.35/2019
Draft / Fair Order
Date: 11.09.2023