

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
PERAMBALUR.

Present: Tmt.A.Balkis, B.L.,
Principal District Judge.

Thursday, the 11th day of August, 2022.

I.A.No.3/2020
in
OS.No.2/2019

Minor Balamurali Krishna,
S/o. Jayakandan,
Rep by his Guardian/Father Jayakandan
Perambalur Taluk and District.

---Petitioner/Plaintiff

-Vs-

1. Vanajarani,
W/o. Ramkumar,
Perambalur.
2. Jayachitra,
D/o. Nallusamy.
Ladapuram Village.
3. Indian Bank, Ladapuram Branch
rep by its Branch Manager,
Ladapuram Village.
4. State Bank of India, Perambalur Branch
Represented by Branch Manager,
Perambalur Taluk and District.
5. Catholic Syrian Bank, Ammapalayam Branch,
Rep. By its Branch Manager,
Ammapalayam Village,
Perambalur Taluk and District

---Respondents/Defendants.

This petition is coming up before me for final hearing in the presence of Thiru-valargal.K. Chinnappa and M.A.Chinnappa, Advocates for the petitioner and

Thiru.E.Valluvan Nambi, Advocate for the 1st and 2nd respondents and Thiru.P.-Suresh Kumar, Advocate for the 3rd respondent and Thiru.R.Senthamaraikannan, Advocate for the 5th respondent and the 4th respondent called absent, set exparte and upon perusing the petition, counter and other relevant records and upon hearing both side, this Court has passed the following:

ORDER

The petition is filed under Order 32 Rule 12 and section 151 of C.P.C to declare the petitioner/plaintiff as major by discharging his guardianship with his father Jayakanthan and permitting him to represent the case.

2. The brief averments of the petition are as follows:-

The case of the petitioner is that the petitioner is the plaintiff and the suit is filed by his father on his behalf as against the respondents for partition and permanent injunction and the same is pending. At the time of filing the suit, the petitioner was a minor and hence his father was representing on behalf of him. Now the petitioner was attained majority and he is aged about 19 years and his date of birth is 31.07.2001(amended as per order in I.A.6/2021, dated 16.04.2021). Hence it is just and necessary to declare the petitioner as major so as to avoid complication in getting the relief. If the petition is not allowed, he will be put to untold sufferings and great hardship. Hence this petition.

3. The brief averments of the counter filed by the 1st respondent(adopted by the 2nd respondent) is as follows:

The contention of the respondents are that the allegations contained in the affidavit filed in support of the petition are all specifically denied as false. The petition is not maintainable in law and on facts. The date of birth of the petitioner mentioned as 10.08.2001 is false. It is true that the date of birth of the petitioner as

31.07.2001. The petitioner has falsely noted the date of birth and his father name was wrongly mentioned and also short cause title was not given. Hence the petition is not sustainable and the petition is liable to be dismissed with cost of the respondents.

4. Point for consideration:

Whether I.A.No.03/2020 has to be allowed or not?

Point:

5. This petition is filed by the petitioner to declare him as major and by discharging the guardianship of his father.

6. The respondent contended that the date of birth was wrongly stated as 10.08.2001 but the actual date of birth of the minor is 31.07.2001. The father name of the petitioner was also wrongly mentioned with spelling mistake. Therefore, the petitioner has come forward with false affidavit and facts and therefore, the petition has to be dismissed. After filing of the counter, the petitioner has filed an amendment petition under Order 6 Rule 17 and it was allowed on 16.04.2021 and the date of birth was amended as 31.07.2001. The spelling mistake in his father's name was also corrected. Therefore, the error committed by the petitioner has been rectified and the amendment was made under order 6 rule 18 always relate back to the filing of the petition and therefore, the objection raised by the petitioner has become extinct. The petitioner has attained majority and the ground alleged by the respondent is no more in existence. Therefore, this petition is allowed and the point is answered as such.

7. In the result, the petition is allowed. No costs.

Dictated to the Executive Assistant, transcribed and typed by her, corrected and pronounced by me in open Court, this the 11th day of August, 2022.

(Sd/-). A. Balkis,
Principal District Judge,
Perambalur.

Fair/Draft Order

I.A.No.03/2020

in

O.S.No.2/2019

D.D:11.08.2022.