

IN THE COURT OF THE DISTRICT MUNSIF, DHRAPURAM

Present : Selvi.S.Agnes Jeba Kiruba , M.L.,

District Munsif, Dharapuram

On this the 10 Day of March 2022, Thursday

I.A. 1342/2021

O.S.203/2012

1. Duraisamy

2. Rangasamy

3. Chinnaamy Rep. by their Power Agent, Duraisamy ...Petitioner/plaintiff

/Vs/

Palanisamygounder ...Respondent/Defendant

Chellamuthu ...Respondent/ Proposed party
Defendant No.2

This petition came up before me on 01.03.2022 for the final hearing in the presence of Mr.K. Pannerselvam, B.A.,B.L., the Advocate for Petitioner/Plaintiff and Mr. C. Karunamoorthy,B.Sc.,B.L., Advocate for the respondent. Upon perusing the affidavit and petition, counter, documentary evidence and upon hearing the arguments advanced by both sides, having stood over till this day for consideration, this court deliver the following.

' ORDER '

The petition has been filed by the petitioner to condone the delay in filing petition to implead the legal heirs of the defendant , under Section 5 of limitation Act.

1. The brief averments of the affidavit filed by the petitioner:

The petitioner prays to condone the delay of 98 days in filing steps to implead the Legal heirs of the deceased defendant as the plaintiff came to know about the death of the defendant later.Hence the petition.

2. The brief averments of the counter filed by the Respondent:

The respondent denied the petition averments and stated that the deceased respondent executed a will in favour of his grandsons and they are the necessary parties to the suit. Hence prays for dismissal of the petition with costs.

3. No witnesses and documents were produced on either side
4. The point for consideration in this application is,

Whether the petition is to be allowed or not?

5. Discussion

This court carefully considered the rival contention raised by both sides. It is not disputed that the 2nd respondent is the son of the deceased defendant in the suit. No specific details regarding the alleged will and no details about the beneficiaries of the will also stated in the counter

It is stated by the petitioner that the 2nd respondent/proposed party is to be impleaded as he is the son of the deceased.

Since the right to be sued survives on the legal heir of the deceased, the 2nd respondent herein and no specific objection stated by the 2nd respondent in his counter and on considering the covid -19 pandemic situation, this court is inclined to allow this petition.

6. In the result,

1. This petition is allowed. Delay condoned.

2. No costs.

Directed by me to steno typist, typed by her checked, corrected and pronounced by me in Open Court on 10-03-2022.

Sd/-S.Agnes Jeba Kiruba
District Munsif,
Dharapuram.

Petitioner side and Defendant side witness, Documents

- Nil

Sd/-S.Agnes Jeba Kiruba
District Munsif,
Dharapuram.