

IN THE COURT OF THE DISTRICT MUNSIF, PALLADAM

**Present:- Thiru. V. Kalidasan, B.Com., L.L.M.,
District Munsif, Palladam.**

Wednesday the 19th day of March 2025

I.A. No.4/2025
in
O.S.No.104/2019

1. Balamani
2. Srinivasan
3. Govindaraj (Died)
4. Preetha
5. Sangeetha
6. Minor Pragalya
7. Minor Laksshana Sastik

Minors Rep/ by their Mother/ Guardian

Sangeetha

... Petitioners/ Plaintiffs

/Vs/

1. Karthiyan
2. Arunraj
3. Muthuraj

... Respondents/Defendants

This Petition is coming on 14.03.2025 for final hearing before me in the presence of Tmt.R.Krishnaveni, Advocate for the Petitioner and Thiru.S.Kalichamy, Advocate for R1 and R2 and Thiru.R.Balaji, Advocate for R3. Upon perusing the Petition, affidavit, Counter statement and other connected material papers of record and hearing the arguments of both sides and having stood over till this day for consideration, this court made the following...

ORDER

The petitioner filed the petition Under Order 6 Rule 16 & 17 of CPC to permit the petitioner to amend the plaint as stated in this petition.

2. The case of the petitioners is that during the pendency of the suit, the 3rd plaintiff died on 26.11.2024. Hence, an application in I.A.No.3/2025 was filed to implead his wife and children as the plaintiffs 5 to 7 in the suit and the same was allowed by this court in dated 13.02.2025. The 3rd respondent was impleaded as the 3rd defendant in the suit as per the orders dated 20.09.2024 passed by this court in I.A.No.1/2023. Since, the I.A.No.1/2023 and I.A.No.3/2025 were allowed by this court the petitioners filing this petition to amend the plaint. The proposed amendments are consequential one and will not prejudice the respondents in any way. Therefore, this petition is filed for amendment.

3. The case of the respondents 1 and 2 is that they do not have any objections regarding 1 to 10 proposed amendments mentioned in the petition as “Details of Amendments.” But, the petitioners/plaintiffs seeking 11th proposed amendments is invalid in the eye of law for the reason the 11th proposed amendment is totally change the nature and character of the suit. Moreover, the petitioner’s/plaintiffs seeking the relief for permanent injunction in the prayer pertaining to the 11th proposed amendment hence the respondents 1 and 2 have strongly object the petition mentioned amendments. If allowing the amendment leads to multiplicity of proceedings and drag the courts time, the petitioners approach by way of amendment application with unclean hands. Hence, prayed to dismiss this petition.

4. The case of the 3rd respondent is that he do not have any objections regarding 1 to 10 proposed amendments mentioned in the petition as “Details of Amendments.” But, the petitioners/plaintiffs seeking 11th proposed amendments is invalid in the eye of law for the reason the 11th proposed amendment is totally change the nature and character of the suit. Moreover, the petitioners/plaintiffs seeking the relief for permanent injunction in the prayer pertaining to the 11th proposed amendment hence the respondents 1 and 2 have strongly object the petition mentioned amendments. If allowing the amendment leads to

multiplicity of proceedings and drag the courts time, the petitioners approach by way of amendment application with unclean hands. Hence, prayed to dismiss this petition.

5. Points for consideration:

Whether this petition will be allowed or not ?

6. Heard both sides. No oral or documentary evidence is let in by both sides.

7. Answer to the point :

Materials on records perused. It is seen from the records the suit in O.S. No.104/2019 has been filed for permanent injunction. This petition is filed Under Order 6 Rule 16 & 17 of CPC by the petitioner to amend the plaint as stated in the petition.

8. The main contentions of the petitioner is that during pendency of the above suit 3rd plaintiff was died and the petitioners 5 to 7 have impleaded as party to the proceedings as per order in IA.No.3/2025. The 3rd respondent herein has impleaded as per the order copy in IA.No.1/2023 dated 20.09.2024. Therefore, the amendements sought to be amended are all consequential in nature. On the other hand, it is the contention of the respondents 1 to 3 is that they have not having any objection with regard to the proposed amendments No.1 to 10 and the proposed amendment No.11 will change the nature and character of the suit and allowing this petition will lead to multiplicity of proceedings.

9. On considering both sides submissions and on perusing the records though the proposed amendments No.1 to 11 are all consequential in nature, the respondents 1 to 3 have strongly objected for the proposed amendment No.11 and they have stating that it will change the nature and character of the suit. It

is seen from the records the present stage of the suit is posted for trial and during that stage the 3rd respondent herein has been impleaded as 3rd defendant in the above suit. Further, after allowing the impleading petition in IA.No.1/2023, the 3rd plaintiff in the above suit was died on 26.11.2024 and his legal heirs also impleaded as plaintiffs 5 to 7 as per the order passed by this court in IA.No.3/2025.

10. On perusal of the the proposed amendment No.11 sought to be amended, it was stated by the petitioners the respondents 1 and 2 /defendants 1 and 2 had admitted that the alleged settlement deed dated 12.09.2018 in the written statement but during pendency of the above suit the 3rd respondent herein had cancelled the alleged settlement deed dated 12.09.2018 on 28.09.2022. Therefore, the petitioner sought permission to include the same in the pleadings by way of amendment. Since, the 3rd defendant had cancelled the settlement deed dated 12.09.2018 through the cancellation deed dated 28.09.2022 only during the pendency of the above suit, subsequent to the execution of cancellation deed the 3rd respondent herein has impleaded as 3rd defendant in the above suit. Therefore, said facts has to bring on record in the pleadings by way of amendment. It is a settled law that before commencement of trial the amendment application shall be viewed liberally. Further, the amendment sought to be amended are all consequential in nature. Therefore, allowing this petition will not any way prejudice to the respondents. Hence, considering the stage of the suit and in the interest of justice this court is inclined to allow this petition.

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

Dictated to Steno-Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 19th day of March 2025

**District Munsif,
Palladam.**