

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS JUDGE,
THANJAVUR.**

Present :Tmt. A. Malarvizhi, M.L.,
II Additional District & Sessions Judge, Thanjavur.

Wednesday the 7th day of September 2022
(Thiruvalluvar Andu 2053 Aavani Matham 22nd day)

Original Suit No.135/2018 in
I.A No.105/2022

- (1) Ilandhirayan (since died)
- (2) Manimozhi
- (3) Kannan
- (4) Savithiri
- (5) Mathumathi
- (6) Maran

.....Petitioners/Plaintiffs

/vs/

- (1) Uma Ravivarman
- (2) Karikalan
- (3) Abinaya
- (4) Suseela Killivalavan
- (5) Chithirapaavai

.....Respondents/Defendant

This petition having come up for final hearing before me on 12.8.2022 in the presence of Thiru. **A. Vetriselvan**, Advocate for the Petitioners/Plaintiffs and of Thiru. **R. Shanmugasundaram**, Advocate for the Respondents 1 to 3 and of Thiru. **D. Swaminathan**, Advocate for the Respondents 4 & 5 and upon hearing the arguments of both sides, upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court delivered the following

ORDER

The petitioner/plaintiff filed this petition under order 6 rule 17 of C.P.C to amend the plaint.

(2) Heard. Records perused. The petitioner/plaintiff filed this petition under order 6 rule 17 of C.P.C to amend the plaint. The petitioner contended that the respondents 4 & 5/defendants 4 & 5 had filed an application to reject the plaint in I.A No.75/2019 stating that the first plaintiff had filed a suit before the District Munsif, Kumbakonam in O.S No.308/1995 and the 2nd plaintiff filed a suit before the District Munsif, Thiruvaiyaru in O.S.No.82/1994 against deceased Killivalavan who is the husband of the 4th respondent/4th defendant. That application was dismissed. In these circumstances, the petitioners came to understand that the suit which was filed by the first and second plaintiff would be impleaded in the main suit, it is unaware of themselves. Therefore it is necessary to implead the plaint averments about the previous suits. Unless this petition is allowed, the petitioner will be put into irreparable loss and hardship and there is no prejudice to the respondents. So, this petition may be allowed.

(3) The respondents contended that at the time of filing the suit the plaintiffs wantonly and willfully omitted to mention the suit filed by the 1st plaintiff before the District Munsif, Kumbakonam in O.S No.308/1995 and also the suit filed by the second defendant before the District Munsif, Thiruvaiyaru in OS No. 82/1994. Now the Plaintiff tactfully filed the application for amendment to incorporate the allegations about the suit filed by the plaintiff 1 and 2. The 3rd Plaintiff cannot say that he is unaware of the above said suits filed by 1st and 2nd plaintiff. All the plaintiffs have knowldge about the execution of the will by Duraimanikam. The application is devoid on merits. So, it may be dismissed.

(4) On considering both sides arguments this court views that, the respondent rightly objected that the petitioners cannot say they are unaware of previous suit and further views that being it is a trial court, the both parties should be given every opportunity to contest the case effectively. This petition

was filed at the stage of Trial before recording of evidence on plaintiff side. So, this court views that eventhough the petitioner/plaintiff suppressed the previous suits filed by 1 & 2 plaintiffs, allowing this petition will not seriously prejudice the respondents except lapse of time. Hence, this court inclines to permit the petitioner to amend the plaint with condition.

(5) Hence, it is ordered that, this petition will be allowed on payment of cost Rs.500/- each to the respondents on or before 16.9.2022. Call on 19.9.2022.

Dictated to the Steno-Typist, transcribed by her in computer, corrected and pronounced by me in open court, this the 7th day of September 2022.

(Sd) A. Malarvizhi
II Additional District & Sessions Judge,
Thanjavur.

Petitioners and Respondents side
Exhibits and witnesses: Nil

(Sd) A. Malarvizhi
II Additional District & Sessions Judge,
Thanjavur.

order
I.A.No.105/2022 in
O.S.135/2018
Dated: 7.9.2022

