

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

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

**Tuesday the 4th day of July 2023
(Thiruvalluvar Aandu 2054 - Aani Matham 19th day)**

I.A.No.70/2023 in O.S.No.95/2018

P. Karthikeyan

...Petitioner/ Plaintiff

/vs/

- (1) S. Pitchai Pillai
- (2) P. Prakesh
- (3) P.Damayanthi
- (4) P. Malathi
- (5) T. Ravichandran
- (6) T. Nagarajan
- (7) P. Jayamani
- (8) S. Eswari
- (9) E. Suguna
- (10) S. Moscow
- (11) A. Suganya
- (12) G. Elayaraja
- (13) The Tahsildar of Papanasam
- (14) The Sub Registrar of Ayyampettai, Sub Registrar Office,
Ayyampettai.

...Respondents/Defendants

This petition having come up for final hearing before me on 26.06.2023 in the presence of Thiru **TPTR. Thulashiayya**, Advocate for the Petitioner and of Thiru **M.Gajendran**, Advocate for the respondents 1 and 3 and of Thiru. **K.Chandramohan**, Advocate for the respondents 2 and 4 and the respondents 5 to 14 remained exparte 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

(1) This petition is filed by the Petitioner u/o 6 R.17 r/w. Section 151 of C.P.C. to amend the plaint .

(2) Heard Both sides. Records perused. This petition is filed by the Petitioner u/o 6 R.17 r/w. Section 151 of C.P.C. to amend the plaint by including some properties in this petition. The petitioner's counsel argued that the petitioner filed this suit for claiming his 1/3rd share in the suit properties against the respondents. The 1st respondent/defendant is the father of the petitioner. He filed a suit for partition claiming his 1/6th share against his brother and sisters in O.S.No.212/2021 before the Additional Sub-Court, Thanjavur which is still pending. The properties which are mentioned in O.S.No.212/2021 are ancestral properties of the 1st respondent in such properties this petitioner has a right to claim his share in those properties. Now only the petitioner came to know about the knowledge of the suit, immediately he has filed this petition to amend the plaint in O.S.No.95/2018 by including the petition mentioned properties in the suit. If the property has not been included in the suit, finality will be only in part. No hardships will be caused to the respondents . Hence this petition has to be allowed.

(3) The counsel for the Respondents 1 and 3 argued that the present

application to amend the plaint is the 2nd application in the series. Earlier the petitioner filed an application to amend the plaint in I.A.No.88/2022 to implead some of the alieness, which was allowed by this court. Now, the petitioner filed this 2nd application to include certain properties which are in no way connected with the character of the suit property. It shows the malafide intention of the petitioner and how to prolong the trial of the case. The properties sought to be include in the present suit had been purchased by his mother Mariammal by means of a registered sale deed dated 27.11.1984 for valuable consideration in which the petitioner cannot claim any right u/s 15 of the Hindu Succession Act. There are no merits in the application. Hence, this petition may be dismissed.

(4) The 2nd Respondent's counsel argued that the application to amend the plaint for the purpose of including properties in the petition has been designed to drag on the case. The suit properties cannot be impleaded in the suit. Since the said properties are female properties purchased by Mariammal under a registered sale deed dated 27.11.1984 for valuable consideration. Such being the case the petitioner as well as the respondents 2, 3 and 4 cannot claim any colour of right over the petition mentioned properties. Consequentially the petition is not sustainable and liable to be dismissed.

(5) Both side arguments considered. The petitioner has not filed any documents to show the properties which was mentioned in this petition are ancestral properties. As argued by the Respondent's the properties

purchased by a female cannot be treated as ancestral properties without any proof. Hence this court viewed that the proposed amendment will prolong the matter and change the nature of the case. The petitioner can implead him in OS 212/2021. So this Court views that the proposed amendment is not necessary for the disposal of this suit. Hence this court decides that the petition is liable to be dismissed.

(6) In the result this petition is dismissed.

Dictated to the steno-typist, typed by her directly in computer and pronounced by me in open court, this the 4th day of July 2023.

**II Additional District & Sessions Judge,
Thanjavur.**

Petitioner and Respondents side :-

Exhibits and Witnesses : Nil

**II Additional District & Sessions Judge,
Thanjavur.**

Order

I.A.No. 70/2023 in

O.S.No.95/2018

Dated: 4.7.2023