

IN THE COURT OF THE DISTRICT MUNSIF, ARNI
PRESENT: Miss.D.V.Koperundevi,B.com,L.L.B.,(Hons)
DISTRICT MUNSIF,
DISTRICT MUNSIF COURT, ARNI.

Wednesday the 30th day of April 2025

I.A. No.04/2024 in O.S.No.103/2018

1.Sambath(died)
2.Mannuammal, Age 50
3.Dharani, Age 30
4.Vasanthi, Age 27

... Petitioners/Plaintiffs

...Vs...

1.Krishnamoorthy, Age 64
2. Raji, Age 50
3.Arumugam

...Respondents/ Defendants
...Respondent/Proposed Party

This petition came up before me for final hearing on 25.04.2025 in the presence of Advocate Thiru.V.Venkatesan for the Petitioners/Plaintiffs and Advocate Thiru.R.Saravanan for the 1st and 2nd Respondents/ Defendants and the 3rd Respondents/ proposed party being set exparte and upon hearing the both sides enquiry and perusing the material records of this petition and having stood over for consideration till this day, this court delivers the following

ORDER

The petitioner filed this petition for Amendment of the plaint under Order 6 Rule 17 Code of Civil Procedure 1908.

I) The averments in the petition in brief as follows:-

- 1 The petitioner stated in the affidavit that, the petitioner is the plaintiff in the above suit. Further on behalf of other petitioners the petitioner herein filed this petition.
- 2 The petitioner states that the petitioner's father, Sambath, filed the above suit for partition against the defendant, and the same is pending before this court.

- 3 The petitioner states that during the Lis pendis of the above suit, the petitioner's father {Plaintiff) died on 20.10.2019, leaving behind his legal heirs.
- 4 The petitioner further states that the legal representatives of the late Sambath are the petitioner herein, Manuammal and Vasanthi. Except for them, there are no other legal representatives for the petitioner's father.
- 5 The petitioner states that, during the Lis pendis, the respondents herein, on 25.05.2022, the 7th item of the suit property executed the sale deed in favor of Arumugam which includes the 1/3rd share of the petitioner.
- 6 The petitioner states that, based on that execution of sale deed, the Arumugam is the necessary party to the suit. However, IA No 2 of 2023, was filed to implead the Arumugam as a party to the suit, and the same was allowed on 27.07.2023.
- 7 The petitioner states that, based on that above IA 2 of 2023, it is necessary to amend the plaint in the OS No 103 of 2018. Hence the petitioner herein filed the petition to amend the plaint.

II) The averments in the counter in brief as follows:-

The 3rd respondent was set exparte and the 1st and 2nd respondent endorsed as no counter.

III) Points for consideration:

1. Whether the petition is to be allowed or not?

IV) POINTS:

- 1 On consideration of pleadings and arguments placed on both sides. On perusal of records, the petitioner's father filed the above suit for partition and the same was pending before this court. During the pendency of the suit, the plaintiff Sambath died leaving behind his legal representatives namely Mannuammal, Dharani, and Vasanthi. Except for them, there are no other legal representatives.
- 2 It is significant to note that, during the pendency of the suit, the respondents herein, on 25.05.2022, the 7th item of the suit property executed the sale deed in

favor of Arumugam, he is the proposed party in the petition, which includes the 1/3rd share of the petitioner. further, based on that execution of sale deed, the Arumugam is the necessary party to the suit. However, IA No 2 of 2023, was filed to implead the Arumugam as a necessary party to the suit, and the same was allowed on 27.07.2023.

- 3 It is pertinent to note that, based on I.A. No: 02 of 2023, this petition is filed to amend the plaint in O. S. No 103 Of 2018.
- 4 On considering this amendment application, Order 6 Rule 17 CPC has to be perused. It read as follows :

"17. Amendment of pleadings :- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties :

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial".

- 5 In the present case, the above discussion establishes that the proposed amendment would not introduce a new cause of action, it will not alter the nature of the case and it has not claimed any new relief. Hence, this court is of the considered view that the petition to amend the plaint deserves to be allowed.

As a result, the petition to amend the plaint under Order VI Rule 17 CPC is allowed. No costs.

Dictated to Steno Typist, and computerized by her directly, corrected and pronounced by me in the open Court, on the 30th day of April 2025.

**Sd/-Miss.D.V.Koperundevi,
District Munsif
Arni**

List of documents & witnesses : N I L

**Sd/-Miss.D.V.Koperundevi,
District Munsif
Arni**