



IN THE COURT OF SUBORDINATE JUDGE : LALGUDI

Present : Thiru.S.Vijayakumar M.A., M.L.,

Subordinate Court, Lalgudi

Dated Monday, the 04th day March 2024

I.A No.8/ 2022 in AS.No.2/2019

(CNR.No.TNTP180000652019)

1. Srinivasan
2. Pichaimuthu
3. Chinnammal

...Petitioners/Appellants.

- Vs -

1. Srinivasan
2. Kandan
3. Subramani
4. Raju
5. Thirupathi
6. Thirupathi
7. Rasu
8. Paramasivam
9. Chinnapillai @ Ranasamy (Died)
10. Palaniyammal (Died)
11. Sevanthi
12. Peruma
13. Maruvayee (Died)
14. Sellammal

....Respondents No. 1 to 14/ Respondents No. 1 to 5, 7 to 15

15. Santhi
16. Vasantha
17. Saroja
18. Ravi
19. Subramani
20. Chandra
21. Karuppannan
22. Sriraman @ Mani
23. Rajagobal

. . . Respondents No.15 to 23/proposed parties.

This petition is filed on 15.02.2022 and taken on file and came up before this court for final hearing on 01.11.2023, in the presence of Thiru.A.R.Magudavel- advocate for the petitioners and the respondents No.1 to 5, 7, 8 are remained as exparte in the main appeal and respondents No.6, 15 to 23 are remained as exparte and respondents No. 11, 12, 14 are died and the respondent No.6 in the main appeal is died and upon hearing petitioners side and upon perusing the case records and having stood over for consideration before this court till this day, today this court hereby delivers the following. . .

ORDER

This is the petition filed by the petitioners/appellants under order 6 rule 17 and section 151 of CPC praying to amend the memorandum of appeal.

2. Short and Summary of affidavit and petition :-

The 1st petitioner is the 1st appellant in the suit and he knows the facts of the case and he had already filed a petition for impleading the legal heirs of deceased 9th , 10th and 13th respondents and the same was allowed on 22.12.2021 meanwhile one of the 3rd appellant passed away on 24.12.2014 and her legal heirs viz. appellants 1 & 2 are

already on record, there is no other legal heirs of deceased 3rd appellant and the detailed memo was already filed and the same was recorded before this court and consequently the appeal may have to be amended and the proposed amendment is only formal and essential one and there is no change any pleading and by amending the appeal no prejudice will be caused to other side and on the other hand if it is not done he will be put to serious loss and prejudice and it is therefore just and necessary that this court may be pleased to amend the memorandum of appeal as detailed in the petition, pass suitable order.

3. The respondents No.1 to 5, 7, 8 are remained as *exparte* in the main appeal and respondents No.6, 15 to 23 are remained as *exparte*. There is no oral and documentary evidence let in by the petitioners side. Petitioners side argument heard. Available case records perused.

4. Point for determination :-

Whether the petition for amend the memorandum of appeal is liable to be allowed or not? is the point for determination of this petition.

5. On the point:-

The learned counsel for the petitioners/appellants would submit that already the impleading petition to implead the legal heirs of respondents No. 9, 10, 13 was allowed and 3rd appellant is passed away and the proposed amendment ought to be allowed and hence this petition may be allowed.

6. This court is carefully considered the submission of petitioners side and available case records. The proposed amendment are detailed hereunder as : - “I) In the short cause title add within bracket after the 3rd appellant is dead. II) In the long cause title add within bracket after the 3rd appellant is dead. III) In the short cause title add within

bracket after the 9th respondent is dead. IV) In the long cause title add within bracket after the 9th respondent is dead. V) In the short cause title after the 14th respondent and add the same 15) Santhi 16) Vasantha 17) Saroja 18) Ravi 19) Selvamani. VI) In the long cause title after the 14th respondent and add the same 15) Santhi D/o. (Late) Rengaraj, W/o. Karuppanna, residing at Kondan Street, Valmalpalayam, Keelur, Cholanganallur post, Trichy – 213. 16) Vasantha D/o. (Late) Rengaraj, W/o. Ragu, residing at Kavandampatti, Keelur, Cholanganallur post, Trichy – 213. 17) Saroja D/o. (Late) Rengaraj, W/o. Masimalai, residing at Pongan Street, Valmalpalayam, keelur, Cholanganallur post, Trichy 213. 18) Ravi S/o. (Late) Rengaraj, residing at Kondan Street, Valmalpalayam, Keelur, Cholanganallur post, Trichy – 213, 19) Selvamani D/o. (Late) Rengaraj, W/o. Kulandaivelu, residing at Moovarampalayam, Melur, Thirupanjili post, Trichy District. VII) In the short cause title add within bracket after the 10th respondent is dead VIII) In the long cause title add within bracket after the 10th respondent is dead. IX) In the short cause title after the 19th respondent and add the same 20) Chandra. X) In the long cause title after the 19th respondent and add the same 20) Chandra W/o. Selavaraj, residing at Pungan street, Valmalpalayam, Keelur, Cholanganallur post, Trichy – 213. XI) In the short cause title add within bracket after the 13th respondent dead. XII) In the long cause title add within bracket after the 13th respondent is dead XIII) In the short cause title after the 20th respondent and add the same 21) Karuppannan 22) Srinivasan @ Mani 23) Rajagopal. XIV) In the long cause title after the 20th respondent and add the same 21) Karuppannan S/o. Narayanan, residing at Valmalpalayam, Kondan street, Valmalpalayam, keelur, Cholanganallur post, Sirugambur, Lalgudi Taluk, Trichy – 213. 22) Srinivasan @ Mani S/o. Narayanan, residing at Valmalpalayam, Gopalan street, Melur, Cholanganallur post, Sirugambur, Lalgudi Taluk, Trichy 213. 23) Rajagopal S/o. Narayanan, residing at Valmalpalayam, Kondan street, Valmalpalayam, Keelur, Cholanganallur post, Sirugambur, Lalgudi Taluk, Trichy – 213. XV) Add after valuation column in the grounds of Appeal : During the pendency of the appeal the 3rd appellant passed away and her legal heirs viz. Appellants

1 & 2 are already on record. The 9th respondent passed away, the legal heirs of deceased Santhi, Vasantha, Saroja, Ravi and Selvamani as respondent 15 to 19 to succeed to his estate. The 10th respondent passed away, the legal heirs of deceased Chandra as respondent 20th to succeed to her estate. The 13th respondent passed away, the legal heirs of deceased Karuppannan, Srinivasan @ Mani and Rajagopal as respondent 21st to 23rd to succeed to her estate. Hence the memorandum of appeal may have to be amended suitably.

7. The reason of this petition is enough already the party impleading petition to implead the legal heirs of deceased respondents No. 9, 10 and 13 are allowed on 22.12.2021 and so the proposed amendment is essential one. Already the petition in IA.No.7/2021, 5/2021 are allowed in respect of the deceased respondents No.9, 10. The proposed amendment are consequential in nature and to decide the main appeal the proposed details of amendment ought to be permitted.

8. If this petition is allowed, no great prejudice and irreparable loss will be caused to the available respondent but if this petition is dismissed the petitioners will be put into much hardship and irreparable loss. Further if this petition is allowed the nature of main appeal will not be changed.

9. For the above reasons, the argument of the petitioners side is accepted and this court is find that this petition is liable to be allowed. Considering the facts and circumstances of this petition there is no order of cost.

In the result, petition is allowed. There is no order of cost.

Dictated to steno-typist, typed by her in computer, printout taken, corrected and pronounced by me in open court on this the 04th day of March 2024.

SUB JUDGE
LALGUDI.

Enclosure:

Petitioners side witness and document :- Nil.

Respondents side witness and document :- Nil.

SUB JUDGE
LALGUDI.