

IN THE COURT OF THE DISTRICT MUNSIF, THIRUVOTTRIYUR
THIRUVALUR DISTRICT.

Present: Selvi. K. Malarkodi, B.A.,B.L.,
District Munsif,
Thiruvottriyur

Wednesday, this the 11th day of September 2024

I.A. No.4 of 2024
in
O.S.No.63 of 2022

1. Kanniyappan(Died)
2. Gomathi
3. Mahalakshmi
4. Bala Murali
5. Yogalakshmi

...Petitioners/ Proposed Plaintiffs

//Vs//

1. Raju
2. Mary

.....Respondents / Defendants

This petition came up on 04.09.2024 for final hearing before me in the presence of M/s.R.Gopalakrishnan and N.Vivek Advocates for Petitioners/Proposed Plaintiffs and M/s.G.M.Gokul Ram and M.Rajeswaran Advocates for the Respondents/Defendants and upon hearing enquiry on both sides and having stood over for consideration till this date, this court made the following:-

ORDER

This petition is filed by the petitioners/proposed plaintiffs under Order 22 Rule 3 of CPC, the legal heirs of the deceased 1st plaintiff to implead them as plaintiffs 2 to 5.

2. The averments of the petition/affidavit filed by the petitioners/plaintiffs in short are as follows:

The petitioner stated that he is the 4th petitioner herein and he is filing this affidavit for himself and also on behalf of the other petitioners. The above suit was posted for framing of issues. His father had filed the above suit against the defendants for the relief of permanent injunction. During pendency of the above case, the petitioner's father died intestate on 22.05.2024 leaving behind the legal representatives the petitioners 2 to 5 as stated in the petition. They have to be impleaded in the above suit as plaintiffs 2 to 5. Hence this petition.

3. The averments of the counter filed by the Respondents / defendants in short are as follows:

The respondent stated that he is the 1st respondent herein and this counter is being filed by the 1st respondent and also on behalf of the 2nd respondent. The original plaintiff Kanniyappan passed away on 22.05.2024. Subsequently this petition is filed by the 2 to 5 petitioners claiming to be the legal heirs of the deceased 1st petitioner. The petitioners have not produced or even mentioned any legal heirs certificate issued by the competent authority, to substantiate their claim as legal heirs of the deceased 1st petitioner. If the petition is allowed it will cause great prejudice and unbearable loss to the respondent. Hence this petition is liable to be dismissed.

4. Now, the point for consideration is whether the petition filed Under Order 22 Rule 3 of CPC is to be allowed or not?

5. The petition, counter and other materials available on records were carefully perused. Both sides have not examined any witness and have not marked any Exhibits and documents.

6. Heard both sides.

7. Admittedly, the suit is filed for the relief of permanent injunction and consequential relief of mandatory injunction. According to the petitioners/plaintiffs and his father had filed the above suit against the defendant. During pendency of the above case, the petitioner's father died intestate on 22.05.2024 leaving behind the legal representatives the petitioners 2 to 5 as stated in the petition. They have to be impleaded in the above suit as plaintiffs 2 to 5.

8. Per contra, the respondents contended that the petitioners have not produced any documentary evidence to prove the fact that the proposed parties namely the petitioners 2 to 5 are the legal heirs of the deceased 1st plaintiff.

9. Considering the facts and circumstances of the case, it is necessary to implead the legal heirs of the deceased 1st plaintiff for effective adjudication. No prejudice will be caused to the respondents by way of allowing this application. Therefore, In the interest of justice this Court is inclined to allow this petition.

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

Dictated directly to the steno-typist, typed by her in the computer, corrected and pronounced by me in open court, this the 11th day of September 2024.

District Munsif,
Thiruvottriyur.

List of witnesses and exhibits on both side: Nil

District Munsif,
Thiruvottriyur.