

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Wednesday, the 15th day of November 2023.

INTERLOCUTORY APPLICATION NO.3 OF 2023

IN

ORIGINAL SUIT NO.83 OF 2015

1. P.Kalimuthu (died)
2. K.Panneerselvam
3. Mohan
4. R.Rajendran
5. Rani
6. Boopalan
7. Priyanka
8. Rajkumar

..... Petitioners/plaintiffs

Versus

1. Subbaiah (died)
2. Lakshmi @ Ladachi
3. Sumathi
4. Pandian
5. Somasundaram

..... Respondents/Defendants

..... Respondents/Proposed defendants

This petition is coming before me for final hearing today, in the presence of Mr.S.Elango, learned counsel for the petitioners/plaintiffs and Mr.R.Sureshkumar, Mr.P.Sankar, learned counsels for the Respondents/defendants. Upon perusing the entire case records, upon hearing the submissions made by the learned counsels for the petitioners and the respondents and on perusal of the material case records, and the Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition is filed under Order 22 Rule 1 and 4 of CPC to implead the 3 to 5 respondents as legal heirs of the deceased 1st defendant Subbaiah.

2. Brief averments of the affidavit filed by the petitioners are as follows:

The 2nd Petitioner files the affidavit on his behalf and on behalf of the other petitioners. The petitioner submits that the plaintiffs have filed the above suit for recovery of possession and for permanent injunction as against the respondents/defendants 1 and 2. Pending suit, the 1st defendant Subbaiah died on 07.09.2022 leaving behind the 2nd defendant, and the 3 to 5th respondents as his legal heirs and there are no other legal heirs. Since one of the legal heirs of the deceased 1st defendant who is the 2nd defendant is already on record, the right to sue survives and the suit shall not get abated. It is just and necessary to implead the 3 to 5 respondents as defendants in the suit as they are proper and necessary parties to the suit. Hence, this petition.

3. Brief averments of the counter filed by the Respondents are as follows:

The respondents submit that the petitioners have not properly explained the reasons for the delay caused in filing this application. The respondents submit that the petitioners/plaintiffs have not come to this court with clean hands and hence prays that this petition is to be dismissed with exemplary costs.

4. Neither the petitioners nor the respondents have placed any oral or documentary evidence before this court. Now it is the paramount duty of the court to decide whether this petition is to be allowed or not?

5. Heard both sides arguments. Records Perused.

6. Upon careful analysis of the case records and on considering the arguments, this court finds that this petition has been filed to implead the legal heirs of the deceased 1st defendant in the suit. The petitioners are the plaintiffs in the suit and the suit has been filed for a relief of recovery of possession and for permanent injunction as against the defendants 1 and 2. Taking into account of all the averments and contentions of the petitioners and the respondents in this regard and considering the

nature of the relief sought for in the suit, and the fact that the respondents have not denied the death of the 1st defendant and his relationship with the respondents 3 to 5, this court views that the respondents 3 to 5 as the legal heirs of the 1st respondent / 1st defendant are necessary parties to the suit for effectual and complete settlement of issues in the suit and to avoid multiplicity of proceedings. Hence, this court is inclined to allow this petition.

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

Dictated to the steno-typist, who directly typed the same, corrected and pronounced by me in the open Court on this the 15th day of November 2023.

**Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI.**

Petitioners' and Respondents' side Witnesses and Exhibits: Nil.

**Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI.**

Fair/ Draft Order
I.A.No.3/2023
O.S.No.83/2015
Date:15.11.2023
DMC,PNI.