

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi. **R.M. Subathra**, B.A.B.L(Hons.), M.L.(IPR).,
District Munsif, Ponneri.

Tuesday, the 28th day of January, 2020

I.A.1/2019
in
O.S.No.32/2011

V. Geetha

...Petitioner/Proposed 8th defendant

-Vs-

1. P. Kuppusamy
2. G. Vijayalakshmi
3. Latha
4. P. Kasi (died)
5. P. Kumar
6. R. Vasanthi
7. R. Baby (Minor)
8. R. Renuka (Minor)
9. R. Arunkumar (Minor)
10. M. Durai

...Respondents/defendants

This petition having been finally heard on 10.01.2020, in the presence of Mr. S. Baskar, the learned counsel for the petitioner/Proposed 8th defendant and Mr. R. Krishnaswamy, the learned counsel for respondents 1 to 3 /plaintiffs and Mr. A. Devendran, the learned counsel for the 10th respondent/ 7th defendant and upon hearing the arguments of both sides and after perusal of the entire records and having stood over for my consideration till this day, this court delivers the following:

ORDER

This is a petition filed under Order I Rule 10 of Civil Procedure Code seeking to implead the petitioner as 8th defendant in O.S.32/2011.

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2. The averments set out in the petition affidavit filed by the petitioner is as follows:

The petitioner is the 3rd party in the suit filed by the elder brother of the petitioner and her sisters, for partition of 1/6th share in the suit property. The father of the petitioner Pattu married one Meerammal as his 1st wife and the legal heirs are as follows:- i) Kuppusamy ii) P. Kasi iii) P. Vijayalakshmi iv) P. Ravichandran v) P. Kumar vi) P. Latha. Before demise of the father of the petitioner on 14.10.2001, he married the mother of the petitioner, Annammal, as the 2nd wife. The plaintiff, and the defendants had obtained legal heirship certificate without the name of the petitioner and her mother. The petitioner came to know of the same only recently. Hence, the present petition to implead the 8th defendant in the suit.

3. The averments set out in the counter filed by the 1st respondent and adopted by the 2nd and 3rd respondents is as follows:

a) It is denied that the 1st wife of Pattu the father of this defendant died issueless. On the other hand, she died leaving her children who are referred in para 3 of the affidavit. It is denied that after the death of his 1st wife namely Meerammal, pattu married Annammal as his second wife. It is denied that the plaintiff and the defendants 1 to 6 obtained legal heir certificate without the name of the petitioner and her mother.

b) It is denied the Revenue Authority also issued legal heir certificate without proper enquiry in favour of the plaintiffs and the defendants 1 to 6. In any event, Annammal referred in the affidavit was not at all the wife much less the legally wedded wife of Pattu and further the petitioner is also not at all the daughter of this respondents father Pattu. In any event, the petitioner has sought to implead herself as 4th plaintiff, which can not be done.

c) At the best the petitioner can be implead only as the 11th defendant and not as the

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4th plaintiff, when particularly the plaintiffs including this respondent, denied the very legitimacy of the petitioner and her mother with late Pattu. The petitioner is neither a necessary party nor a proper party. Hence, petition is to be dismissed.

4. The averments set out in the counter filed by the 6th respondent/th defendant is as follows:

The petitioner mother namely Annammal first married one person and settled at Puthuvoyal Village, After the death of her husband she got a second marriage with Kuttiappan and settled at Kattavoor Village. She was living together. She was not a 2nd wife of Pattu. The petitioner is not a daughter of the said Pattu. Hence the petitioner is unnecessary party in the suit. If really petitioner is daughter of the Pattu, the said Pattu having nearly 10 Acres for family properties at Kattavoor Village. Hence, the petitioner filed the fresh suit all the family properties for partition and claiming the share. The petitioner did not file any proof for daughter of Pattu. Hence, the petition is to be dismissed.

4. Now the point for consideration is whether the petitioner is entitled to get the relief as prayed for?

5. On both sides no oral and documentary evidences was let in.

6. Heard both sides. Perused the records. This is the petition to implead the petitioner as the 8th defendant in the suit. The suit is for partition of the property among the children of Pattammal. The petitioner claim herself to be daughter of Pattu born through 2nd marriage to one Annammal. It is stated in the counter of respondent 1 to 3 that Annammal was never the wife much less the legally wedded wife and that at the best the petitioner can be impleaded only as 11th defendant and not as plaintiff. It is stated in the counter of 10th respondent that the mother of the petitioner Annammal was 1st married to one person and settled Puthuvoyal Village and after death of her husband she was living together with Kuttiappan and was

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settled at Kattavoor Village. She was not daughter of Pattu and the petitioner had not filed any proof that she is the daughter of Pattu. Though rightly pointed by the counsel the petitioner had not filed any proof that she is daughter of Pattu, it is the contention in the petition that legal heirship certificate was obtained without her knowledge. In the suit for partition all the parties are necessary. The court fees that petitioner should be added as a party to the suit on the claim that she is born to Pattu through 2nd wife Annammal, subject to proof of marriage. The petitioner has to prove that she is one of legal heirs of Pattu in the suit. Hence, petition allowed, the petitioner is directed to implead as defendant in the suit.

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

Order directly dictated to Steno-Typist, typed by him, corrected and pronounced by me in the Open Court on this, the 28th day of January, 2020.

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Ponneri.**

List of witnesses on the side of the petitioner

NIL

List of documents on the side of the Petitioner

NIL

List of witnesses on the side of the respondents

NIL

List of documents on the side of the respondents

NIL

**DM,
PNI.**

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Fair/ Draft Order
I.A.No.1/2019
O.S.No.32/2011
Date:28.01.2020
DMC,PNI.

District Munsif,