

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

**Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,
District Munsif, Tiruttani.**

Dated the Thursday of 28th Day of November 2024

I.A.No.2/2024 in OS.No.35/2014

(CNR.No. TNTR21-000050-2024)

...

1. Mannesammal (died) ... Plaintiff
2. Rajeswari
3. Minor Vingesh , Rep. By his mother
next fried Rajeswari ...2,3 petitioners /
2,3 Proposed Plaintiffs

/Versus/

1. E. Subramani
2. The Thasildar, Tiruttani
3. The Revenue Divisional Officer, Tiruttani
4. The Sub-Registrar, Tiruttani
5. The District Collector, Tiruvallur ... Respondents / Defendants

This petition came up before me for the final hearing on 19.11.2024 in the presence of M/s. C.A. Natarajan, Advocate for Petitioners/ 2,3 Proposed Plaintiffs, 1st plaintiff was died, M/s. M/s. V. Kishore Reddy, E. Vijayakumar, A. Akila, Advocates for 1st Respondent /1st Defendants, 2 to 5 were set exparty in suit. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

The petition is filed by the petitioner under order 22 Rule 3 of CPC to implead the proposed petitioners 2 and 3 as Legal heirs of deceased 1st plaintiff.

1. **Petition averments in brief:-**

The Plaintiff Mannesammal filed this suit against the 1st respondent for declaration and injunction. She also gave evidence in this case as PW1 and marked documents to prove her case. While so, she is aged person and so she voluntarily executed a Will dated 02.08.2019 in favour of the 2, 3 petitioner and conduct the case after her. Further more stating all the facts and settled the suit properties to the

petitioners as per the said Will. The said plaintiff Mannesammal died on 10.01.2022 leaving the said Will and now came into force and the said petitioners 2 and 3 have to be impleaded as parties in this suit for complete adjudication. The petitioner is in time and not barred by limitation for corona-19 and the limitation starts from 28.02.2022 which is in time as the court reopens from 01.06.2022. Hence, this petition filed.

2. **Counter filed on behalf of the 4th respondent in brief:-**

This petition is not maintainable either in law or on facts. The said petition is time barred one and the petitioner have failed to file a petition under section 5 of Limitation act. The petitioners have failed to produce the legal heir certificate or death certificate of the plaintiff namely the deceased Mannesiammal. Even the petitioners also failed to produce the alleged Will dated 02.08.2019 executed by the said Mannesiammal while the above suit is pending. Hence the said Will is not valid in law and not binding on this respondent. The petition is highly belated one and this petition is to be dismissed in limini.

3. **Point for determination:-**

Whether the petitioner is entitled to the relief as sought for? or not?

4. Heard both side. According to the petitioner, the Plaintiff Mannesammal executed a Will dated 02.08.2019 in favour of the 2, 3 petitioner. The said plaintiff Mannesammal died on 10.01.2022 leaving the said Will and now came into force. Therefore the said petitioners 2 and 3 have to be impleaded as parties in this suit for complete adjudication. The petitioner is in time and not barred by limitation for Corona-19. The limitation starts from 28.02.2022 which is in time. Therefore petitioner prays to allow the petition.

5. Respondent resisted the petition by contending that the said petition is time barred one and the petitioner have failed to file a petition under section 5 of Limitation act. The petitioners have failed to produce the legal heir certificate or death certificate of the plaintiff namely the deceased Mannesiammal. Even the petitioners also failed to produce the alleged Will dated 02.08.2019 executed by the said Mannesiammal. Therefore, the said Will is not valid in law and not binding on

this respondent. The petition is highly belated one Hence, prays to dismiss the petition.

6. The petition is originally filed on 01.06.2022. As per the judgment of Hon'ble Supreme Court in suomoto Writ Petition No.3/2020 time extended till 30.08.2022 for all judicial proceedings. Hence this petition filed within time. The petitioner prays to implead the 2nd and 3rd petitioners as per the Will dated 02.08.2019. The validity and reliability of Will to be considered in trial alone. This is a legal heir petition. Hence considering the facts and circumstances this court is of view that, in the interest of justice as the proposed parties are necessary for proper adjudication of this case, hence, this petition has to be allowed.

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

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 28th day of November 2024.

Sd/- R.D. Gurulakshmi
28.11.2024
District Munsif,
Tiruttani.

Petitioners and Responent side Exhibits and witness: NIL

Sd/- R.D. Gurulakshmi
28.11.2024
District Munsif,
Tiruttani.