

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,
Additional District Judge(FTC),Vellore.

Dated this the 14th day of February 2023, Tuesday

I.A.No.4/2023 in
O.S.NO.145/2009

- - - - -

Shanthi

..Petitioner/Plaintiff

//Vs//

1. The Executive Engineer,
Tamilnadu Housing Board, Vellore.
2. The Chairman, Tamilnadu Housing Board, Chennai.
3. N.Muniswamy Mudaliar (Died)
4. N.Palani Mudaliar
5. N.Gopal Mudaliar
6. Jothi
7. Lakshmi
8. Balaji
9. Arul

.. 6 to 9 proposed parties/
Respondents/ Defendants

This petition is coming before me on 13.02.2023 for final hearing in the presence of Thiru.M.Kuppaiah and Thiru.D.Ravi, Counsels for the petitioner and of Thiru.J.Sridharan, Counsel for the respondents No.1 and 2 and of Thiru.M.Balaji, Counsel for the respondents No.4 and 5 and of Thiru.V.Rathinakumar, Counsel for the respondents No.6 to 9, and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following:-

ORDER

Petition filed by the petitioner under Or.6 Rule 17 of CPC for amending the Plaint as detailed in the petition.

2.The averments of the affidavit is as follows:-

The petitioner herein is the Plaintiff in the main suit. The petitioner filed the main suit for declaration and injunction against the respondents. During the pendency of the above suit, the 3rd defendant namely N.Munuswamy died on 28.09.2018 leaving behind the proposed parties 6 to 9 as his legal heirs to succeed the estate of said Munuswamy. The petition to implead the legal heirs of Munusamy was allowed on 08.12.2022 as per the Order passed in I.A.No.3/2022 and accordingly the Plaint has to be amended.

3. Brief averments of the counter filed by the respondents No.1 and 2 is as follows:-

This petition is not maintainable either in law or on facts. All the affidavit averments are denied except those that are admitted by the respondent herein. The petitioner is regularly following the suit and the suit is pending more than 10 years. It is the bound and duty to the petitioner to file the implead application in proper time. This court was pleased to grant number of times to implead proposed parties. But the Plaintiff did not file the same in time. Now they filed the present application to drag the matter with the reasons best known to them. On this ground alone, the present application is liable to be dismissed. The petitioner approached this court

with her unclean hands and filed the present application to drag the proceedings endlessly with the reasons best known to them. Hence the respondents prays to dismiss the petition.

4. The Respondents No.4 to 9 have not filed counter inspite of more than sufficient time given.

5. The point for consideration in this petition is;

Whether the petition is to be allowed or not?

6. Point:

The petitioner stated that he filed the main suit for declaration and injunction against the respondents. During the pendency of the above suit, the 3rd defendant namely N.Munuswamy died on 28.09.2018 leaving behind the respondents No.6 to 9 as his legal heirs to succeed the estate of said Munuswamy. The petition to implead the legal heirs of Munusamy was allowed on 08.12.2022 as per the Order passed in I.A.No.3/2022 and accordingly the Plaint has to be amended.

But the respondents No.1 and 2 are denied the allegations and stated that the petitioner is regularly following the suit and the suit is pending more than 10 years. It is the bound and duty to the petitioner to file the implead application in proper time. This court was pleased to grant number of times to implead proposed parties. But the Plaintiff did not file the same in time. Now they filed the present application to drag the matter with the reasons best known to them. On this ground alone, the present application is liable

to be dismissed. The petitioner approached this court with her unclean hands and filed the present application to drag the proceedings endlessly with the reasons best known to them.

Even though the respondents 1 and 2 denied the allegations and stated that the present petition has been filed only to drag on the proceedings but not made any serious objections with regard to the legal heirs of the deceased 3rd defendant and further the respondents 1 and 2 have not stated any appeal has been filed as against the order passed in I.A.No.3/2022 dated 08.12.2022 objecting for impleading the respondents No.6 to 9 as legal heirs of deceased 3rd defendant. Since the respondents 1 and 2 have not filed any appeal as against the order passed in I.A.No.3/2022, the order become final and the plaint has to be amended accordingly. No prejudice will be caused to the respondents 1 and 2 if the plaint is amended and the legal heirs of the deceased 3rd defendant are included in the Plaint as legal heirs of the deceased 3rd defendant.

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

Dictated to steno typist typed by her directly, corrected and pronounced by me in open court, this the 14th day of February 2023.

**Additional District Judge(FTC)
Vellore.**

Both side witnesses and Exhibits:

NIL

ADJ (FTC), Vellore.

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,
Additional District Judge(FTC),Vellore.

Dated this the 14th day of February 2023, Tuesday

I.A.No.4/2023 in
O.S.NO.145/2009

- - - - -

Shanthi, aged about 48 years, W/o.Thirunavukkarasu, Hindu, residing at
No.12, 31st street, Phase-2, Sathuvachari, Vellore District.

..Petitioner/Plaintiff

//Vs//

1. The Executive Engineer/Administrative Officer (i/c), Vellore Housing Unit, Tamilnadu Housing Board, Phase-I, Sathuvachari, Vellore-09.
2. The Chairman, Tamilnadu Housing Board, Nandanam, Chennai- 600 035.
3. N.Muniswamy Mudaliar (Died), aged 58 years, S/o.Naina Mudaliar, residing at No.3/245, Pudu Street, Nemili, Attupakkam Post, Arakkonam Taluk, Vellore District.
4. N.Palani Mudaliar, aged about 53 years, S/o.Naina Mudaliar, residing at No.65/37, Pillaiyar Kovil Street, Rangapuram Village, H/o.Sathuvachari, Vellore-09.
5. N.Gopal Mudaliar, aged about 48 years, S/o.Naina Mudaliar, residing at No.37/64, Pillaiyar Kovil Street, Rangapuram Village, H/o.Sathuvachari Post, Vellore-09.
6. Jothi, aged about 65 years, W/o.Late.N.Munusamy,
7. Lakshmi, aged about 46 years, D/o.Late.N.Munusamy,
8. Balaji, aged about 44 years, S/o.Late.N.Munusamy, No.6 to 8 residing at Attupakkam Village and Post, Arakkonam Taluk, Vellore.
9. Arul, aged about 40 years, S/o.Late.N.Munusamy, residing at No.37/A, Pillaiyar Kovil Street, Rangapuram, Sathuvachari, Vellore.

.. Proposed parties 6 to 9
Respondents/Defendants

Petition filed by the petitioner under Or.6 Rule 17 of
CPC for amending the Plaint as detailed in the petition.

This petition is coming before me on 13.02.2023 for final hearing in the presence of Thiru.M.Kuppaiah and Thiru.D.Ravi, Counsels for the petitioner and of Thiru.J.Sridharan, Counsel for the respondents No.1 and 2 and of Thiru.M.Balaji, Counsel for the respondents No.4 and 5 and of Thiru.V.Rathinakumar, Counsel for the respondents No.6 to 9 and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court doth order and decretal order as follows:-

DECREETAL ORDER

1. That the petition be and the same is hereby allowed;
2. That there be no cost.

Given under my hand and the seal of this court, on this the 14th day of February 2023.

**Additional District Judge(FTC),
Vellore.**