

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

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

Dated this the 04th day of November 2022, Friday

I.A.NO.1/2022 in
O.S.NO.54/2016

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Shamshad Begum

.. Petitioner/Plaintiff

//Vs//

1. Abrar Ahmed
2. Hajira Nasreen
3. Yasmeen
4. Asfiya
5. Farooq Ahmed(died)

... Respondents/Defendants

This petition cameup before me on 03.11.2022 for final hearing in the presence of Thiru.K.Umar, Counsel for the petitioner and of Thiru.S.Babu, Counsel for the respondents No.1,3,4 and of Thiru.C.Kannan, counsel for the 2nd respondent but counter not filed by the 2nd respondent inspite of sufficient time given 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 and Sec.151 of CPC prays to amend the plaint as per the particulars of Amendment furnished in the petition.

2.The averments of the affidavit as follows:-

The petitioner herein is the plaintiff in the suit. The petitioner filed the main suit for declaration and the same is pending before this court for disposal. The petitioner impleaded the 5th defendant who was the Manager and the man of the contesting defendants. The said 5th defendant died on 6.05.2021 and there is no relief sought to be obtained against the legal heirs of the deceased 5th defendant except that the 5th defendant acted in connivance with the other defendants. As such the petitioner wants to amend the plaint as mentioned in the petition and prays to allow the petition.

3. Brief averments of the counter filed by the respondents No.1,3,4 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 wants to drag on the proceedings and harass these respondents. The 5th respondent who was impleaded is totally an unnecessary party and is a misjoinder of party. None the allegations made concerning the 5th respondent are admitted. When his inclusion itself was not necessary, the consequential process following his death further erodes time, thereby these respondents are caused to suffer the prolongation of proceedings. Hence the respondents prays to dismiss the petition.

4. The point for consideration in this petition is;

Whether the amendment petition has to be allowed or not?

5. Point:

The petitioner stated that she filed the main suit for declaration and the same is pending before this court for disposal. The petitioner impleaded the 5th defendant who was the Manager and the man of the contesting defendants. The said 5th defendant died on 6.05.2021 and there is no relief sought to be obtained against the legal heirs of the deceased 5th defendant except that the 5th defendant acted in connivance with the other defendants. As such the petitioner wants to amend the plaint as mentioned in the petition

But the respondents denied the allegations and stated that the petitioner wants to drag on the proceedings and harass these respondents. The 5th respondent who was impleaded is totally an unnecessary party and is a misjoinder of party. None of the allegations made concerning the 5th respondent are admitted. When his inclusion itself was not necessary, the consequential process following his death further erodes time, thereby these respondents are caused to suffer the prolongation of proceedings.

Even though the respondents denied the allegations and stated that the 5th respondent is an unnecessary party and is a misjoinder of party but not made any serious objections that the said 5th defendant died on 6.5.2021 and also not denied that there is no relief sought to be obtained or agitated by the legal heirs of the 5th defendant and the death of the 5th defendant has to be recorded in the plaint. Since the 5th defendant is mentioned as the defendant in the original plaint and since the said defendant died on

06.05.2021 his death has to be recorded in the above suit for proper and complete adjudication. The only amendment sought by the petitioner herein is to record the death of the 5th defendant in the short and long cause title of the Plaint and mentioning the death of the 5th Plaintiff and the relief sought for as against the said 5th defendant by stating in para No.7. Since the respondents have not made any serious objections with regard to the said amendments the present petition has to be allowed for proper and complete adjudication in the present suit.

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

Dictated to steno typist directly, typed by her, corrected and pronounced by me in open court, this the 04th day of November 2022.

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

Both side witnesses and Exhibits:

NIL

**ADJ (FTC),
Vellore.**

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),
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Additional District Judge(FTC).**

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Shamshad Begum, aged about 56 years, W/o.Late.Abdul Razack @ Asmath Basha Sahib, Muslim, House wife, residing at No.58/350, Patel Yacoob Sahib Street, Fort, Vaniyambadi, Vellore District.

.. Petitioner/Plaintiff

//Vs//

1. Abrar Ahmed, aged 50 years, S/o.Late.Abdul Razack @ Asmath Basha Sahib,
 2. Hajira Nasreen, aged 53 years, W/o.Faslur Rahman, D/o.Late.Abdul Razack @ Asmath Basha Sahib,
 3. Yasmeen, aged 51 years, W/o.Alauddin, D/o.Late.Abdul Razack @ Asmath Basha Sahib,
 4. Asfiya, aged about 49 years, W/o.Liyakath Ali, D/o.Late.Abdul Razack @ Asmath Basha Sahib,
- All are residing at No.5/2, Kattur Sadayappan Street, 2nd Floor, Periyamet, Chennai -3.
5. Farooq Ahmed, aged about 60 years, S/o.V.Haji Md. Sadiq Sahib, residing at No.26, Malang Road, Pernambut, Gudiyattam Taluk, Vellore District.

... Respondents/Defendants

Petition filed by the petitioner under Or.6, Rule 17 and Sec.151 of CPC prays to amend the plaint as per the particulars of Amendment furnished in the petition.

This petition cameup before me on 03.11.2022 for final hearing in the presence of Thiru.K.Umar, Counsel for the petitioner and of Thiru.S.Babu, Counsel for the respondents No.1,3,4 and of Thiru.C.Kannan, counsel for the 2nd respondent but counter not filed by the 2nd respondent inspite of sufficient time given 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 decreetal order as follows:-

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DECREETAL ORDER

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

Given under my hand and the seal of this court, on this the 04th day of
November 2022.

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