

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 25th day of November 2022, Friday

I.A.NO.2/2022 in
O.S.NO.20/2021

- - - - -

B.Leela

.. Petitioner/Plaintiff

//Vs//

1. A.Lisa
2. B.Prabhu
3. A.Nisha

... Respondents/Defendants

This petition cameup before me on 24.11.2022 for final hearing in the presence of Thiru.R.Karthikeyan, Counsel for the petitioner and of Thiru.S.T.Rajkumar, counsel for the respondents No.1 and 3 and of Thiru.A.Karthikeyan, Counsel for the 2nd respondent and upon hearing the arguments of both sides and upon perusing the written argument of 2nd respondent 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 mentioned in the petition.

2.The averments of the affidavit as follows:-

The petitioner herein is the Plaintiff in the above suit. The petitioner has filed the suit against the respondents for partition and permanent injunction. At the time of filing the suit, the petitioner had left out some of the joint family properties to be included in the schedule. After the commencement of trial only, the petitioner has noticed the left out properties. Since those items of properties are joint family properties it is to be included in the Plaint schedule. No prejudice will be caused to the respondent, if the left out properties are included in the suit. If the amendment is allowed, no new case or cause of action arose and there is no bar of Limitation. Hence the petitioner filed this petition and prays to allow the petition.

3. Brief averments of the counter filed by the 2nd respondent 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 documents sought to be received are all within the custody of the petitioner herein. Apart from that, the petitioner had certainly knowledge about all the properties which belongs to the Baskaran. In spite of that, the petitioner had filed the above suit without including the said properties purposely and after commencement of trial, the petitioner had filed the above application with the sole aim of dragging on the proceedings.

On this short ground also the petition is liable to be dismissed. The above application is time barred one and the same is highly barred by limitation. There is no merit or bonafide in the above petition and the same is liable to be dismissed.

4. The counsel for the respondents No.1 and 3 endorsed as "No Objection".

5. The point for consideration in this petition is;

Whether the amendment petition has to be allowed or not?

6. Point:

The petitioner stated that he has filed the suit against the respondents for partition and permanent injunction. At the time of filing the suit, the petitioner had left out some of the joint family properties to be included in the schedule. After the commencement of trial only, the petitioner has noticed the left out properties. Since those items of properties are joint family properties it is to be included in the Plaint schedule. No prejudice will be caused to the respondent, if the left out properties are included in the suit. If the amendment is allowed, no new case or cause of action arose and there is no bar of Limitation.

But the respondent denied the allegations and stated that the documents sought to be received are all within the custody of the petitioner herein. Apart from that, the petitioner had certainly knowledge about all the properties which belongs to the Baskaran. In spite of that, the petitioner had

filed the above suit without including the said properties purposely and after commencement of trial, the petitioner had filed the above application with the sole aim of dragging on the proceedings. On this short ground also the petition is liable to be dismissed. The above application is time barred one and the same is highly barred by limitation.

Even though the respondent denied the allegations but not specifically denied that the properties sought to be included are not joint family properties or stated that they are the separate properties. Hence in the interest of justice and for proper and complete adjudication the present petition may be allowed and in order to avoid multiplicity of proceedings, and since partial partition cannot be allowed, the present petition may be allowed.

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 25th 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),
VELLORE, VELLORE DISTRICT.

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

Dated this the 25th day of November 2022, Friday

I.A.NO.2/2022 in
O.S.NO.20/2021

- - - - -

B.Leela, aged 57 years, W/o.Late.Baskaran, residing at
No.559, Nethaji Nagar, Virudhambattu, Gandhi Nagar,
Vellore-632 006 and now residing at Ullari Pilakal House,
Mooniyur South Post, Malappuram, Kerala-676 311.

.. Petitioner/Plaintiff

//Vs//

1. A.Lisa, aged 42 years, W/o.Anil, D/o.Late.Bhaskaran,
residing at Thumbani House, Neduva, Chettippadi Post,
Parappanangadi, Malappuram, Kerala-676 319.
2. B.Prabhu, aged 40 years, S/o.Late.Bhaskaran,
residing at No.559, Nethaji Nagar, Virudhambattu,
Vellore-632 006.
3. A.Nisha, aged 37 years, W/o.V.Ajaykumar, D/o.Late.Bhaskaran,
residing at Vellaikkot House, West Vataparamb, Chaliyam,
Chealiyam S.O. Kozhikode, Kerala – 673 301.

... Respondents/Defendants

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

This petition came up before me on 24.11.2022 for final hearing in the
presence of Thiru.R.Karthikeyan, Counsel for the petitioner and of
Thiru.S.T.Rajkumar, counsel for the respondents No.1 and 3 and of
Thiru.A.Karthikeyan, Counsel for the 2nd respondent and upon hearing the
arguments of both sides and upon perusing the written argument of 2nd
respondent 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:-

DECRETAL 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 25th day of
November 2022.

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