

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 06th day of June 2023, Tuesday.

I.A.No.3/2023 in
O.S.NO.20/2021

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B.Leela

..Petitioner/Plaintiff

/Vs/

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

..Respondents/Defendants

This petition was filed before this court and coming before me on 05.06.2023 for final hearing in the presence of Thiru.R.Karthikeyan, counsel for the Petitioner and of Thiru.S.T.Raj Kumar, 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 entire case records and having stood over for consideration, till this date this court delivered the following:-

ORDER

Petition filed by the Petitioner under Order 6, Rule 17 and Sec.151 of CPC, prays to amend 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 suit for Partition and for permanent injunction. At the time of

filing the suit, he had left out some of the joint family properties to be included in the schedule. After the commencement of trial only, he had 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. Hence the petitioner filed the petition in I.A.No.2/2022 to include the aforesaid properties in the plaint and the same was allowed on 25.11.2022 by this court. In this aspect, the above plaint ought to be amended. Hence the petitioner filed this petition and prays to allow the petition.

3. The counsel for the respondents No.1 and 3 has endorsed as "No Counter".

4. Brief averments of the counter filed by the 2nd respondent are 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 had not produced any single scrap of paper to substantiate their allegations levelled against the respondent. Knowing fully well of the facts that he had no case at all, the petitioner had filed the above petition without any legal basis and with some ulterior motive to harass this respondent to come to terms either one way or other. On this short ground alone, the application filed by the petitioner is liable to be dismissed with the cost of this respondent. The petitioner had filed the

above suit without knowing the brief history of the suit property. In fact, this respondent had already filed his written statement in the above suit by stating some of the properties have been omitted to be included in the suit. Even after filing of the written statement, the petitioner had not chosen to come forward to amend the Plaint for including the omitted items of the suit properties. It is pertinent to note that this respondent had taken plea of partial partition could not be maintainable. When the above case has been posted for commencement of trial, the petitioner herein had come forward with this application to amend the Plaint which is not at all maintainable. On this short ground alone, the petition is liable to be dismissed. The petitioner had not stated any valid or tenable reasons in their petition. In order to delay and prolong the proceedings as long as possible to come to an end, the petitioner had adopted this sort of dilatory tactics by filing this sort of application which could not be entertained by this court. Apart from that, the entire reason assigned by the petitioner is very vague in nature. Based on the vague averments, the petitioner is not entitled to get any relief and this petition is liable to be dismissed. In order to drag on this respondent from pillar to post without any valid or tenable reasons the petitioner filed this petition with cock and bull stories and the same is liable to be dismissed.

5. The point for consideration in this petition is;

Whether the petition is to be allowed or not?

6. Point:

The petitioner has stated that she filed the suit for Partition and for permanent injunction. At the time of filing the suit, he had left out some of the joint family properties to be included in the schedule. After the commencement of trial only, he had noticed the left out properties. Since those items of properties are joint family properties it is to be included in the Plaint schedule and the petition filed by the petitioner to include the said properties in the Plaint was allowed in I.A.No.2/2022, dated 25.11.2022, hence the plaint has to be amended accordingly.

But the 2nd respondent denied the allegations and stated that the petitioner had not produced any single scrap of paper to substantiate their allegations levelled against the respondent. Knowing fully well of the facts that he had no case at all, the petitioner had filed the above petition without any legal basis and with some ulterior motive to harass this respondent to come to terms either one way or other. On this short ground alone, the application filed by the petitioner is liable to be dismissed with the cost of this respondent. The petitioner had filed the above suit without knowing the brief history of the suit property. In fact, this respondent had already filed his written statement in the above suit by stating some of the properties have been omitted to be included in the suit. Even after filing of the written statement, the petitioner had not chosen to come forward to amend the Plaint for including the omitted items of the suit properties. It is pertinent to

note that this respondent had taken plea of partial partition could not be maintainable. When the above case has been posted for commencement of trial, the petitioner herein had come forward with this application to amend the Plaint which is not at all maintainable. The petitioner had not stated any valid or tenable reasons in their petition. In order to delay and prolong the proceedings as long as possible to come to an end, the petitioner had adopted this sort of dilatory tactics by filing this sort of application which could not be entertained by this court. Apart from that, the entire reason assigned by the petitioner is very vague in nature. Based on the vague averments, the petitioner is not entitled to get any relief and this petition is liable to be dismissed.

Even though the 2nd respondent stated that the petitioner has not filed any single paper to substantiate their allegation and no valid or tenable reasons mentioned in the petition, but not stated whether any appeal has been filed as against the order passed in I.A.No.2/2022 which is filed for including the properties alleged to be included in the suit. The 2nd respondent in his counter admits that partial partition is not maintainable and further the 2nd respondent has not made any serious objections that the properties alleged to be included in the suit are not the joint family properties. Since the respondents have not filed any appeal as against the order passed in I.A.No.2/2022 dated 25.11.2022, the order passed in that I.A. has become final and the present petition is only a consequential

amendment petition and no prejudice will be caused to the respondent if the present petition is allowed.

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

Dictated to steno typist, typed by her directly through Computer, corrected and pronounced by me in open court, this the 06th day of June 2023.

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

Both side witnesses and Exhibits:

NIL

**Additional District Judge(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 06th day of June 2023, Tuesday.

I.A.No.3/2023 in
O.S.NO.20/2021

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B.Leela, aged 57 years, W/o.Late.Baskaran, Hindu, 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, Hindu, residing at Thumbani House, Neduva, Chettipadi Post, Parappanangadi, Malappuram, Kerala – 676 319.
2. B.Prabhu, aged about 40 years, S/o.Late.Bhaskaran, Hindu, residing at No.559, Nethaji Nagar, Virudhambattu, Vellore – 632 006.
3. A.Nisha, aged about 37 years, W/o.V.Ajay Kumar, D/o.Late.Bhaskaran, Hindu, residing at Vellaikkot House, West Vataparamb, Chaliyam, Chealiyam S.O. Kozhikode, Kerala – 673 301.

..Respondents/Defendants

Petition filed by the Petitioner under Order 6, Rule 17 and Sec.151 of CPC,
prays to amend the Plaint as detailed in the petition.

This petition was filed before this court and coming before me on 05.06.2023 for final hearing in the presence of Thiru.R.Karthikeyan, counsel for the Petitioner and of Thiru.S.T.Raj Kumar, 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 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 06th day of June
2023.

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