

**IN THE COURT OF THE I ADDITIONAL DISTRICT AND SESSIONS
JUDGE, VELLORE, VELLORE DISTRICT.**

PRESENT: Tmt.G.Santhi, B.A., M.L.,
I Additional District and Sessions Judge,
Vellore.

On Tuesday, the 24th day of September, 2024

I.A.No. 2/2023 In O.S.No. 24/2022

1. Ambiga (died)	 Erstwhile 1 st plaintiff
2. Vanitha	 Petitioner/ 2 nd Plaintiff

/vs/

S. Elango	Respondent / Defendant
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This petition came up before me for final hearing on 24.09.2024 in the presence of Thiru.P.N.Araavamudhan, Counsel for the Petitioner/Plaintiff and Respondent / Defendant called absent set exparte and sufficient time given to respondents has not filed counter and upon perusing the entire case records and having stood over for consideration till this day, this Court delivered the following:-

ORDER

The petition filed on the behalf of the Petitioner/2nd Plaintiff under Order 6 Rule 17 and Section 151 C.P.C. for amendment.

2. The brief averments in the affidavit by the petitioner are read as follows:

i. The petitioner herein is the 2nd plaintiff in the above suit. The 1st plaintiff is her mother who died on 19.03.2023 after executing a registered Will in her sound state of mind without any influence from any quarters in her favour in respect of her undivided 1/3rd share in the above suit. Further stated that while her mother filed the above suit along with her, claimed 2/3rd share together in our favour. In view of my mother bequeath her 1/3rd share in her favour through the registered Will dated 30.06.2022. In view of her mother executed a registered Will

in her favour, the plaint is to be amended. Hence filed this application.

3. Even after given sufficient time given, the Respondent has not filed counter and set exparte.

4. Petitioner's argument heard. Records perused.

5. The point for consideration is whether the petition is to be allowed or not?

POINT:

6. The petitioner filed this application to amend the plaint. The deponent is the 2nd plaintiff in the above suit. The 1st plaintiff is mother of 2nd plaintiff who died on 19.03.2023, after executing a registered Will in her sound state of mind without any influence in favour of this petitioner, in respect of her undivided 1/3rd share in the above suit. While her mother filed the above suit along with the 2nd plaintiff/petitioner and claimed 2/3rd share together in their favour. In view of her mother bequeath, her mother's 1/3rd share was registered in favour of 2nd plaintiff through registered Will dated 30.06.2022. In view of the above Will, the plaint is to be amended.

7. This petition filed along with death certificate of mother and registered Will in favour of this 2nd plaintiff/petitioner. The validity of Will would not be decided in this application. It will be decided only after the trial. Hence, this petition has merits and it is just and necessary to allow the petitioner to amend the plaint as described in the petition under the head of details of the amendment. Accordingly, this petition is allowed.

In the result, this petition is allowed.

Dictated by me to the Steno-Typist, typed by him in computer, corrected and pronounced by me in the Open Court, this the 24th day of September, 2024.

I Additional District and Sessions Judge,
Vellore.