

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

**PRESENT: Thiru.G.Radhakrishnan, B.Com., L.L.B.,
Additional District Judge (FTC) (FAC), Vellore.**

Friday, the 7th day of March, 2025

I.A. No.3/2024 in O.S. No.64/2022

1. Nirmala

2. Kirubakaran

3. Samuel Sampath

4. Hemalatha

. . . Petitioners/Plaintiffs

Versus

1. Y.R.Chandra Bai (Died)

2. R.Sathiyakumar

3. R.Gnanaprakash (Died)

4. M.Shyla Shree (Died)

5. R.Beaula Sheela Rajashree

. . . Respondents/Defendants

6. M.Manogaran

7. M.Jancy

. . . Respondents/L.R.'s of
deceased 4th Defendant

This petition came up before me for final hearing on 05.03.2025, in the presence of Tvl.S.Sundaresan and M.Ravikumar, Counsel for the Petitioners; Tvl.a.Karthikeyan and A.Ganesh, Counsel for the Respondents 2, 5, 6 and 7; and the Respondents 1, 3 and 4 were died and upon hearing the arguments of both sides, perusing of case records and having stood over for consideration till this date, this court delivers the following:-

ORDER

This petition has been filed by the petitioner under Order VI Rule 17 and Section 151 of C.P.C. to amend the plaint and petition in I.A. No.2/2023 as mentioned in the Particulars of Amendment given below:

a) Add the word "Died" after the name of the defendants 1 and 3, namely Y.R.Chandra Bai (1st defendant) and R.Gnanaprakash (3rd defendant) in the short cause title and long cause title and register address of parties in the above plaint and petition in I.A. No.2/2023.

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

2.1 The petitioner is the 2nd plaintiff in the main suit filed for partition and permanent injunction which is pending for disposal. While so, the 3rd defendant R.Gnanaprakash died who was not married till his lifetime and lived as bachelor. His father already predeceased and the only legal representative of deceased R.Gnanaprakash now existing is his mother, i.e. 1st defendant to succeed all his assets and liabilities who is already on record in the above suit and the same may be recorded.

2.2 Meantime, the 1st defendant, namely Y.R.Chandra Bai died intestate on 20.02.2024, leaving behind the defendants 2 to 5 to succeed all her assets and liabilities who are already on record as defendants 2 to 5 in the above case and the same may be recorded. It is therefore prayed to permit the petitioner to amend the Plaint and Petition in I.A. No.2/2023 as detailed in the petition.

3. Brief averments of the counter filed by the 6th Respondent adopted by the Respondents 2, 5 and 7 are as follows:-

3.1 The petition is not sustainable either in law or on facts of the case. The petitioners have not produced any single scrap of paper to substantiate their allegations stated in their affidavit. Knowing full well of the facts that they have no case at all, the petitioners have 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. The petitioner had not produced the original death certificate and legal heirship certificate before this court. It is pertinent to note that the alleged death took place in Karnataka State and without producing the original legal heirship certificate by the petitioner, the petitioner is not entitled to get any relief as prayed for in their petition. In order to delay the proceedings, the petitioner had filed the above application without any legal basis. The entire allegations made in the petition are very vague in nature and there is no iota of truth in the said allegations. So, based on the vague and vexatious averments the petitioners are not entitled to any relief from this court. In order to drag on this aged respondent from pillar to post without any valid or tenable reasons the petitioner had filed this petition with cock and bull stories. There are no merits or bonafide in the above application. In the light of the above submissions, it is prayed to dismiss the petition with cost of this respondent.

4. There is no oral and documentary evidence on both sides.

5. The point for consideration in this petition is,

Whether the petition is to be allowed and the petitioner is to be permitted to amend the plaint as prayed?

6. Point:-

6.1 It is observed from the materials that the petitioners/plaintiffs have filed the above suit for partition, separate possession, declaration of deeds as null and void, permanent injunction and for cost. Pending suit, the 4th defendant by name Shyla Shree died and for recognizing the legal heirs of 4th defendant, the applications in I.A. No.2/2023, I.A. No.4/2025 and I.A. No.5/2025 are pending. The 1st defendant also died pending the said application in I.A. No.2/2023 on 20.02.2024. The defendants 2 to 5 are the legal heirs of the deceased 1st defendant and so the plaint has to be consequently be amended. The learned counsel for the petitioners would submit that the amendment sought is only a consequential amendment due to the death of the 1st defendant pending suit and no prejudice will be caused for amending the plaint. But, the learned counsel for the respondents 2, 5, 6 and 7 would submit that the petitioners have not produced any Legal Heir Certificate on the demise of 1st defendant and there are no truth in the allegations found in the petition.

6.2 The 1st defendant is Smt.Y.R.Chandra Bai, W/o.D.Y.Rajan. The defendants 2, 3, 4 and 5 are children of the said D.Y.Rajan and Chandra Bai. The plaintiffs 1 to 4 are the children of one Jayamani. It is stated in the petition itself that the respondents 2 to 5 are the legal heirs of deceased 1st defendant. Whether they are the legal heirs and whether any more legal heirs are there to the deceased 1st defendant would be decided in the suit. On allowing this application, the contesting defendants would have an opportunity to file additional written statement regarding the legal heirs of deceased 1st defendant. As rightly pointed out by the learned counsel for the petitioners, this application has been filed for consequential amendment on the demise of the 1st defendant. Unless the legal heirs of the 1st defendant are impleaded in the suit, this suit for partition would not be proceeded without necessary parties. Considering the facts and circumstances of the case, this court is of the view to allow this application. Accordingly, this point is answered.

In fine, this petition is allowed. No costs.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 7th day of March, 2025.

**Sd/-G.Radhakrishnan,
Additional District Judge (FTC) (FAC),
Vellore.**

Both side Witnesses and Exhibits:- - NIL -

**Sd/-G.Radhakrishnan,
Additional District Judge (FTC) (FAC),
Vellore.**