

**In the Court of the Additional District & Sessions Judge,  
Srivilliputtur.**

**Present : Thiru. B.C. Gopinath, M.L.,  
Additional District and Sessions Judge,  
Srivilliputtur.**

**Thursday, the 1<sup>st</sup> day of September 2022**

**I.A.No. 2/2022**

**in  
O.S. 72/2015**

.....

Muthuramalingam

... Petitioner / Plaintiff

/vs/

- 1) Muniyandi (Died)
- 2) Murugan
- 3) Kaleeswari
- 4) Annapoorani
- 5) Umadevi
- 6) Pandiaraj
- 7) Ramkumar
- 8) Muthulakshmi
- 9) Nithya
- 10) Nimala
- 11) Jothi prakash
- 12) Mariappan
- 13) Nadarajan

... Respondents / Defendants

This petition coming before me for final hearing today on 01.09.2022 in the presence of Thiru.S. Duraisaravanan, Advocate for the petitioner and the respondents 2, 3, 5 to 10 were set exparte and upon hearing arguments on both side and perusing the case records, this Court passed the following....

**ORDER**

This is a Petition under Section 151 CPC to file an additional evidence affidavit by recalling the petitioner.

**1) Case of the Petitioner in brief:**

The Petitioner who is the plaintiff in the suit has filed the suit for partition and other relief. The petitioner alleges that his father/1st defendant died and the defendants 2 & 3 and the petitioner are his legal heirs. Therefore he entitlement to share has enlarged from 1/12<sup>th</sup> to 1/9<sup>th</sup>. To that extent, he has to file an additional evidence affidavit by recalling and re-examine himself. Hence this petition.

**2) No counter was filed on the side of respondents.**

3) During enquiry no evidence, oral or documentary was let in. This Court has carefully considered rival submissions and has perused the materials on record.

4) Now the point for consideration is whether the petition can be allowed or not?

**5) POINT:**

It is seen from the records that the petitioner who is the plaintiff in the suit has filed the suit for partition and other relief. The petitioner alleges that his father/1st defendant died and the defendants 2 & 3 and the petitioner are his legal heirs. Therefore he entitlement to share has enlarged from 1/12<sup>th</sup> to 1/9<sup>th</sup>. To that extent, he has to file an additional evidence affidavit by recalling and re-examine himself.

6) There is no dispute over the fact that the petitioner's father died and there is change in the entitlement to shares. Therefore this court is of the considered view that the petitioner may be given an opportunity to re-examine himself to file an additional affidavit proportionate to the shares that he is entitled to. The point is answered accordingly.

In the result, the petition is allowed. No costs.

Dictated to Steno Typist, typed by her in computer, then corrected and pronounced by me in open court, on this the 1<sup>st</sup> day of September 2022.

S/d. B.C.Gopinath, M.L.,  
Additional District & Sessions Judge,  
Srivilliputtur.

Additional District & Sessions Court,  
Srivilliputtur,  
I.A.2/2022  
in  
OS.72/2015  
Fair/Draft ORDER  
Dated: 01.09.2022

