

In the Court of Subordinate Judge, Aruppukottai

**Present : Thiru. V. Ramalingam, B.Sc., B.L.,
Subordinate Judge, Aruppukottai.**

I.A.No.6/2022 in O.S.No.89/2013

Wednesday, the 19th Day of October 2022

1. Kasthuri Ammal(Died)
2. Nagaiah
3. Muniyasamy
4. Mariammal(Died)
5. Krishnaveni
6. Rajasuriyan

... Petitioners/Plaintiffs

/ Vs/

1. Alagarsamy
2. Veluchamy(Died)
3. Muthumahalingam
4. Periyasamy
5. Thirumurugan(Died)
6. Muthukumar
7. Manakkathal(Died)
8. Kalyani
9. Usha
10. Minor. Karuppasamy
11. Minor. Alagusundaram
12. Ayyappasamy
13. Chellamuthu
14. manonmani
15. Meenakshi
16. Alagu
17. Elanjiyam
18. Veerayee
19. Thirunangai
20. Packiam

... 1st to 20th Respondents/
1st to 20th Defendants

(10th, 11th Minor Petitioners through their guardian 9th Defendant)

21. M. Subbulakshmi
22. Sasi
23. Sathya
24. The Secretary, Mudukankulam Primary Agricultural Co-operative Credit Society
25. Aasaimayandi
26. Rajkumar
27. Alagulakshmi
28. Murugesan
29. Lakshmanan
30. Shanmugam
31. Sangeetha
32. Karthigaiselvi
33. Sivakumar
34. The Sub Registrar, Kariapatti

35. Tamil Nadu State Government through its
representative Virudhunagar District Collector

... 21st to 35th Respondents/
Proposed 21st to 35th Defendants

This Application came up for final hearing before me on 12.10.2022, in the presence of Thiru. P. Kandasamy, Advocate for the Petitioners/Plaintiffs and Thiru. M. Muruganatham Advocate for the 12th to 20th, 23rd, 25th to 31st, 33rd Respondents and Thiru. M. Balamurugan, Advocate for the 1st Respondent and Tmt. Anitha, Advocate for the 21st, 22nd Respondents and 2nd, 5th, 7th Respondents died and 3rd, 4th, 6th, 8th to 11th Respondents remained exparte and upon hearing the arguments on both side and upon perusing the records, having stood over till this date for my consideration, this Court passed the following

ORDER

1. This Application is filed by the Petitioners/Petitioners Under Order 1 Rule 10(2) and Section 151 CPC to implead 21st to 35th Respondents as 21st to 35th Defendants in main suit.

2. **Brief averments of Petition** : -

The Petitioners/Plaintiffs have filed the main suit for partition and declaration of deed. 2nd, 3rd Plaintiffs in main suit are entitled share in suit schedule properties and they have not come forward to proceed the main suit with the Petitioners. Hence, 2nd, 3rd Plaintiffs are to be added as 21st and 22nd Defendants in main suit. Further, 12th, 13th Defendant had executed sale deed to 23rd Respondent in respect of 30 cents in S.No.171/2A and executed mortgage deed to 24th Respondent in respect of 1 acre 6 cents in S.No.171/2A and 23rd Respondent had executed sale deed to 25th Respondent in respect of 20 cents in S.No.171/2A and 12th, 13th Defendants and proposed 32nd, 33rd Respondents had executed sale deed to 26th Respondents in respect of 25 cents in S.No.171/2A1 and 13th Defendant executed settlement deed to 12th Defendant in respect of 0.16.37 ares in S.No.171/2A1 and 12th, 13th Defendants and proposed 32nd, 33rd Respondents had executed sale deed to 27th Respondent in respect of 25 cents in S.No.165/3 and 12th, 13th Defendants had executed sale deed to 28th, 29th, 30th Defendants in respect of 21 cents in S.No.165/3 and 12th, 13th Defendants and 32nd, 33rd Respondents executed sale deed to 31st

Respondent in respect of 0.10.15 ares in S.No.165/3A and 12th Defendant executed settlement deed to 13th Defendant in respect of 0.09.8 ares in S.No.165/C2. The above said sale deeds, settlement deeds and mortgage deed are forged one and they do not bind the title of Plaintiffs in suit schedule properties. Hence, it is necessary to add the 21st to 35th Respondents as parties in main suit. Hence, this application is to be allowed.

3. 3rd, 4th, 6th, 8th to 11th, 24th, 34th, 32nd, 35th Respondents are remained exparte and 2nd, 5th, 7th Respondents died. The counsel for the 21st, 22nd Respondents endorsed in the application as 'no counter'.

4. **Brief averments of Counter of 23rd Respondent adopted by 12th to 20th, 25th to 31st, 33rd Respondents and 1st Respondent:-**

Except the averments which are admitted, all other averments are denied as false. The 23rd and 25th to 33rd Respondents are not parties for partition in main suit. The Petitioners/Plaintiffs compromised with the other parties in O.S.No.195/2012 in respect of suit schedule properties and on the basis of judgment and decree in O.S.No.195/2012, 2nd to 7th Defendants transferred patta and sold the properties to 23rd and 25th to 33rd Respondents. The suit properties belonged to 2nd Defendant ancestrally and it is against the law that the Plaintiffs seek title after selling the properties. The title and enjoyment of suit properties are in the hands of 2nd to 7th Defendants. This application is filed to waive this Respondents and hence, this application is to be dismissed.

5. Point for consideration in this Petition is whether this Petition is to be allowed or not?

6. **Point:-**

Heard both sides. Records perused. This petition is filed to add 21st to 35th Respondents as 21st to 35th Defendants in main suit. Eventhough the 23rd, 12th to 20th, 25th to 31st, 33rd Respondents have vehemently opposed the Petitioner's case, they have not denied about the title of the 21st, 22nd Respondents(2nd, 3rd Plaintiffs) in suit properties. Hence, this court feels that 21st, 22nd Respondents are necessary parties to the main case. Further, the 23rd Respondent parties have

also admitted about the sale deeds executed to them in respect of suit properties, hence, this court feels that 23rd to 35th Respondents are proper parties to the main case. Further the 23rd Respondent parties have not stated any averment as what kind of prejudice would cause if at all this application is allowed. Hence, this court decides that a fair opportunity will be given to the Petitioners, since 21st, 22nd Respondents are necessary parties and 23rd to 35th Respondents are proper parties to the main case. Hence to putforth both side case before this court to decide the case on merit, this court grants opportunity to the Petitioners. Considering the facts and circumstances and this case is 2013 year case, this petition is allowed with condition.

8. In the result, this application is allowed with condition that the Petitioners shall pay a sum of Rs.1000/- to the 12th to 20th, 23rd, 25th to 31st, 33rd Respondents by on or before 31.10.2022. Call on 31.10.2022.

Dictated to the Stenographer and transcribed and typed by her in the computer and after correction, this Order is pronounced by me in the Open Court this the 19th day of October 2022.

Subordinate Judge,
Aruppukottai.

Witnesses examined on the side of the Petitioner, Respondents: - Nil

Documents marked on the side of the Petitioner, Respondents:- Nil

Subordinate Judge,
Aruppukottai.

Sub Court, Aruppukottai
I.A.No.6/2022 in O.S.No.89/2013
Order dated: 19.10.2022