

In the Court of Subordinate Judge, Aruppukottai

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

I.A.No.2/2022 in O.S.No.96/2022

Wednesday, the 17th Day of April 2024

Raja Sikkandhar

... Petitioner/Plaintiff
/Vs/

1. Jamal Kathisha
2. Mahabu Jeyilani Beevi
3. Jamal Maideen
4. Nagoor Kani
5. Ibrahimsha
6. Velu(Died)
7. U. Arumugam
8. Nallal(Died)
9. P. Arumugam(Died)
10. Raman(Died)
11. Irulan(Died)
12. Boominathan(Died)
13. K. Karuppiyah
14. S. Karuppiyah
15. The Tahsildar, Thiruchuli
16. The District Collector, Virudhunagar
17. N. Karuppiyah
18. N. Duraikannu
19. N. Poovalingam
20. A. Karuppiyah
21. M. Karuppayee
22. V. Kannan
23. I. Karuppiyah
24. B. Murugan
25. B. Saravanan
26. V. Karuppiyah
27. V. Kumarasamy

... 1st to 16th Respondents/Defendants

... 17th to 27th Respondents/
Proposed 17th to 27th Defendants

This Application came up for final hearing before me on 03.04.2024 in the presence of Thiru. M. Muthuchamy, Advocate for the Petitioner/Plaintiff and Thiru. N. Solairaj, Advocate for the 7th, 13th, 17th to 25th Respondents and 4th, 5th, 15th, 16th, 26th, 27th Respondents remained exparte in this application and 1st to 3rd, 14th Respondents are already exparte in main suit and 6th, 8th to 12th Respondents died 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 has been filed by the Petitioners Under Order 22 Rule 4 and Section 151 CPC to implead 17th to 27th Respondents as legal heirs of deceased 6th, 8th to 12th Defendants.

2. Brief averments of Application : -

The Petitioner/Plaintiff has filed main suit against the 1st to 16th Respondents. In this situation, it is known to the Petitioner/Plaintiff that 6th, 8th to 12th Defendants when servicing of summon to 6th, 8th to 12th Defendants. 17th to 19th Respondents are legal heirs of deceased 8th Defendant, 20th Respondent is legal heir of deceased 9th Defendant, 21st Respondent is the legal heir of deceased 10th Defendant, deceased 6th and 23rd Respondents are legal heirs of deceased 11th Defendant, 22nd, 26th, 27th Respondents are the legal heir of deceased 6th Defendant, 24th, 25th Respondents are legal heirs of deceased 12th Defendant. Hence the legal heirs of deceased 6th, 8th to 12th Defendants, 17th to 27th Respondents are to be impleaded in main suit. Hence, this application is to be allowed.

3. Brief averments of Counter of 7th Respondent and adopted 13th, 17th to 25th Respondents:-

The petition averments are false. 6th, 8th to 12th Defendants already died before filing of suit. Hence, the case against the deceased persons is not legally maintainable. The Petitioner cannot file application under Order 22 Rule 4 CPC for deceased persons and the Petitioner can file this application under Order 1 Rule 10(2) CPC only. Since 6th, 8th to 12th Defendants died on different dates, the Petitioner should file application under Limitation Act. Hence, this application is not maintainable and is to be dismissed.

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

5. Point:-

Heard both sides. Perused available records.

6. The Petitioner has filed this Application to implead 17th to 27th Respondents as legal heirs

of deceased 6th, 8th to 12th Defendants. Eventhough, the 7th, 13th, 17th to 25th Respondents have objected the Petitioner's case, they have not stated in his counter as what kind of prejudice would cause if at all this application is allowed. Further, the Respondents have not denied that the 17th to 27th Respondents are not the legal heirs of deceased 6th, 8th to 12th Defendants. Hence, this court feels that a fair opportunity will be given to the Petitioner, since this is court of first instance and the reasons stated in the application is acceptable. Hence to putforth both side case before this court to decide the suit on merit, this court grants opportunity to the Petitioners with condition, since this application has been filed with delay.

7. In the result, this application is allowed with condition that the Petitioner shall pay the cost of Rs.500/- to the 7th, 13th, 17th to 25th Respondents on or before 24.04.2024, failing which, this application shall stand dismissed. Call on 24.04.2024.

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 17th day of April 2024.

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.2/2022 in O.S.No.96/2022
Order dated: 17.04.2024