

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 3RD DAY OF DECEMBER 2020

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

A.No.1108 of 2020
in
C.S.No.721 of 2019

Mrs.Kavitha,
D/o.late Mr.M.Nadavelu
W/o.Mr.J.Vigneswaran
No.15/3, Gokulam Flats,
1st Floor,
OFF V.R.Pillar Street,
Narayana Krishnarajapuram,
Triplicane,
Chennai 600 014.

..Plaintiff

-Vs.-

1.Mrs.N.Lakshmi @ Mahalakshmi
Wife of late Mr.M.Nadavelu,
Presently W/o. K.Sampath Kumar

2.Mr.K.Sampath Kumar
S/o.G.Karutaa Gnanianar

3.Mrs.S.Suganya
W/o.Veera Jagadeeswar
D/o.K.Sampath Kumar

4.Mrs.N.Vinothini
D/o.late Mr.Nadavelu
W/o.Mr.R.Lakshmi Narayanan

Defendants 1 to 4 are residing at No.1A, Brahmin Street,
Nemilicherry, Chrompet, Chennai-600 044.

5.The Passport Authority of India,
Rayala Towers, Anna Salai, Chennai-600 002.

6.The Registrar of Births and Deaths,
Pallavarm Municipality,
Chrompet, Chennai-600 044.

7.The Chairman and Managing Director,
TANSI,
Thiru Vi Ka Estate, Guindy,
Chennai 600 032.

8.The Joint Sub Registrar
Saidapet, Guindy,
Chennai 600 032.

9.The Tashildar,
Mambalam Guindy Taluk Office,
T.Nagar, Chennai 600 017.

10.The Forensic Science Department,
30A, Kamarajar Salai,
Mylapore, Chennai 600 004.

... Defendants

A.No.1108 of 2020:

Mrs.N.Vinothini
D/o.late Mr.Nadavelu
W/o.Mr.R.Lakshmi Narayanan
No.1A, Brahmin Street,
Nemilicherry, Chrompet,
Chennai-600 044.

..Applicant/4th Defendant

-Vs.-

Mrs.Kavitha,
D/o.late Mr.M.Nadavelu
W/o.Mr.J.Vigneswaran
No.15/3, Gokulam Flats,
1st Floor, OFF V.R.Pillar Street,
Narayana Krishnarajapuram,
Triplicane,
Chennai 600 014.

..Respondent/Plaintiff

2.Mrs.N.Lakshmi @ Mahalakshmi
W/o. K.Sampath Kumar

3.Mr.K.Sampath Kumar,
S/o. G.Karutaa Gnaniar

4.Mrs.S.Suganya
W/o.Veera Jagadeeswar
D/o.K.Sampath Kumar

Respondents 2 to 4 residing at No.1A,
Brahmin Street,
Nemilicherry, Chrompet,
Chennai-600 044.

5.The Passport Authority of India,
Rayala Towers, Anna Salai, Chennai-600 002.

6.The Registrar of Births and Deaths,
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9.The Tashildar,
Mambalam Guindy Taluk Office,
T.Nagar, Chennai 600 017.

10.The Forensic Science Department,
30A, Kamarajar Salai,
Mylapore, Chennai 600 004.

... Respondents/Defendants

Application praying that this Hon'ble Court be pleased to reject the plaint on the provisions of Order VII Rule 11.

This Application coming on this day before this court for hearing, the Court made the following order:

Application No.1108 of 2020 has been filed by the 4th defendant to reject the plaint under the provisions of Order VII Rule 11 and there is no cause of action alleged against the 4th defendant and no relief what so ever claimed against the 4th defendant.

2. The suit has been filed by the plaintiff for the various relief directing the defendants D1 to D4 to pay compensation for a sum of Rs.1 Crore and to change her father's name and mandatory injunction directing the defendants 1 to 4 to take DNA test.

3. The short facts leading to file the plaint is as follows:

(i). The plaintiff was born to the first defendant. According to the plaintiff, 1st defendant is her mother. The 1st defendant had an illegal affairs with the 2nd defendant during the life time of her husband Late Mr.Nadavelu and the first defendant has introduced the second defendant as the natural father of the plaintiff from her childhood days. Believing the first defendant's words to be true, the plaintiff has accepted and recognised the second defendant as her natural father. However, the plaintiff has come to know that the second defendant is not her father and late Mr.M.Nadavelu is her natural father. D1 and D2 have jointly suppressed the true facts and

cheated the plaintiff and the plaintiff has denied from inheritance of the property of Mr.Nadavelu. Hence, suit for various reliefs.

(ii). 4th defendant is none other than the plaintiff's sister born to the first defendant through her 1st husband Nadavelu. She has moved an application to reject the plaint under Order 7 Rule 11 on the ground that no cause of action has been disclosed and the suit has to be dismissed.

3. It is to be noted that whether any cause of action available in the suit or not has to be seen from the plaint pleadings and not from the written statement or counter filed by them. On perusal of the entire plaint, particularly in para 4, specific allegations made against the 4th defendant in the manner which she was under the pressure and influence money and kinds provided by the defendants 1 to 3. Hence it is stated that the 4th defendant being the daughter of Nadavelu, she is also to be subjected for DNA test to prove the paternity of the plaintiff. Having made allegations against the fourth defendant in para 4 and 16 and other paragraphs, fourth defendant is also to be subjected to take DNA test with the plaintiff, when the issue between the parties revolve around proving the paternity.

4. On perusal of the entire pleadings, the plaint cannot be rejected merely on the allegations made in support of the application and this Court did not find any substance in the application to reject the plaint.

5. Accordingly, the application is dismissed. For filing written statement, post the matter on 07.01.2021.

Sd./-N.S.K.J
03.12.2020

//Certified to be true copy//

Dated at Madras this the day of 2020.

JJ 04/01/2021

COURT OFFICER(O.S.)

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