



WEB COPY



A. No.3626 of 2025

in

C.S. No.33 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

A. No.3626 of 2025

in

C.S. No.33 of 2024

Tittu Kumar Velu S/o. Late Sri P. Velu

... Applicant / Plaintiff

vs.

1. Mrs. Saroja Velu (Deceased)

W/o. Late Sri P. Velu

2.

Mr. Shankar Kumar Velu S/o. Late Sri P. Velu

... Respondent / Defendant

PRAYER: Application filed under Order XIV, Rule 8 of Original Side Rules

read with Order VI Rule 17 of Civil Procedure Code to amend the Plaint.

For Applicant

:

Mr. L. Murali Krishnan

for M/s. K.P. Sathish Kumar

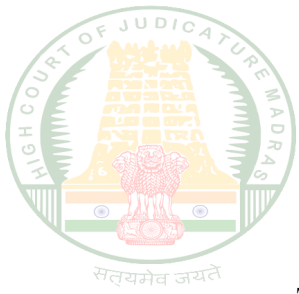
For Respondents

:

Mr. R. Ravindran

ORDER

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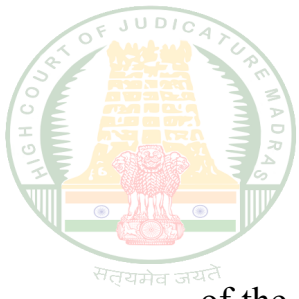


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This application has been filed to amend the Plaint.

2. According to the applicant, he is the Plaintiff in the main Suit and the he filed the said Suit for partition of the Schedule mentioned properties claiming 1/3 share of the properties, mesne profits and for cost. The applicant / Plaintiff has filed the said Suit against one Saroja Velu, who is the mother of the applicant / 1st defendant and brother of the 2nd respondent / 2nd defendant. During the pendency of the Suit, the mother of the applicant died on 12.03.2025 leaving behind the applicant and the 2nd respondent as her legal heirs entitled to succeed to the estate. The 1st defendant died intestate, thereby, her share has to be divided into two parts. Thereby, the applicant is entitled to 1/2 share and his brother 2nd respondent is entitled to 1/2 share of the properties. Therefore, this applicatIon has been filed to amend the Suit. Further, the 1st defendant filed a written statement with delay of 305 days. During the pendency of the said petition, the 1st defendant died. On a perusal

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of the copy of the written statement signed by the 1st defendant, the applicant

came to know that the deceased mother of the applicant has allegedly executed the Testament in favour of the 2nd defendant and executed a Settlement Deed dated 05.04.2024 in respect of the Suit Schedule Item-B Property. The deceased mother of the applicant had no valid right to execute such settlement deed for the entire property and the said property is also a joint family property. Therefore, the Plaint averments and the prayer of the Suit have to be amended as stated in the details of amendments.

3. The learned counsel appearing for the respondent would submit that the application is not maintainable and the same has to be dismissed in limine. The averments made in the application are all denied. The 1st defendant Mrs. Sarjoja Devi died testate on 12.03.2025 and the same was informed to the Court through a memo dated 08.04.2025. This Court also recorded the

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same and directed the Plaintiff to amend the Complaint. Now instead of amending

the cause title of the Complaint and address, the Plaintiff has filed this application to amend the entire body of the complaint by introducing a new set of facts and inserted a new prayer and thereby proposed to alter the entire relief and character of the Suit and therefore, this application has to be dismissed.

4. Heard both sides and perused the entire materials.

5. It is an admitted fact that so far trial has not been commenced and already the applicant / Plaintiff has filed an application to amend the cause title in A. No.1651 of 2025 due to the death of the 1st defendant namely Mrs. Saroja Velu and the same was allowed and the amendment was also carried out. Thereafter, again the same Plaintiff filed the present application to amend the prayer and to include some pleadings in respect of settlement.



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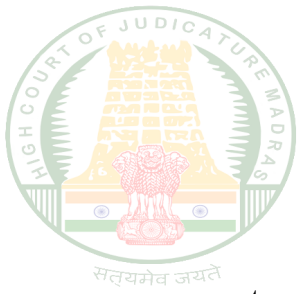
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6. According to the applicant, the above said execution of settlement came to his knowledge only after filing of written statement by his deceased mother/1st defendant. The written statement was filed by the 2nd defendant recently and after seeing the written statement, the proposed amendment has been sought for by the applicant / Plaintiff. Since the trial has not been commenced so far and as per the averments made in the written statement about the execution of settlement deed, the necessity has arisen to amend the prayer in the Plaint.

7. Since the Settlement Deed was executed and the same was brought to the knowledge of the applicant, during pendency of the Suit and in order to avoid multiplicity of proceedings, it is appropriate to allow this application and by allowing this application, no prejudice would be caused to either side.

8. Therefore, this application is *allowed*. There shall be no order as to



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costs. **Post the matter after two weeks after carrying out the amendment.**

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Index : Yes/No

Speaking Order : Yes/No

mjs

P.DHANABAL.,J

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