

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
COIMBATORE.**

**Present: Tmt. G. VIJAYA, B.A., M.L., PGDCFS,
Principal District Judge, Coimbatore.**

Tuesday, this the 21st day of April, 2026

(திருவள்ளூர்வராண்டு, 2057, பராபவ ஆண்டு சித்திரைத் திங்கள் 8-ஆம் நாள் செவ்வாய்கிழமை)

I.A.No.1/2024 in AS No.111/2018

K. Shanmukha Sundaram

... Petitioner / Appellant

//vs//

1. S. Subbaiyan @ Subbae Gounder
2. Bagyalakshmi
3. S. Sudha
4. S. Kavitha
5. S. Geetha
6. Babaramesh

... Respondents / Respondents

7. B. Senthilkumar
8. S. Prabhakaran

... Proposed respondents No.7 and 8

This petition came on 27-03-2026 for hearing before this Court in the presence of **Tvl. S.Suresh Kumar and Sakthi Kalyani Aravindan**, Advocate for the petitioner / appellant and of **Thiru.R.Balasubramaniam**, Advocate for the respondents No.1 to 5 and of **Thiru.K.N.Viswanathan**, Advocate for the respondent No.6 and upon hearing both side arguments, perusing petition, counter and other relevant records, having stood over for consideration till this date, this Court made the following:

ORDER

This is an application filed by the petitioner, u/s.151 r/w Order 1 Rule 10 of CPC, praying to implead the proposed parties as respondents No.7 and 8 in the main appeal.

2. **Averments contained in the affidavit are as follows:-**

(i) The petitioner herein filed the suit in O.S.No.206/2010, against the defendants No.1 to 6, seeking the relief of specific performance and for other reliefs. The 1st respondent is the petitioner father's brother son & 2 to 5 are the wife and daughters of the 1st respondent. The 6th respondent is the alleged purchaser of the land from the respondents No.1 to 5. The petitioner have filed suit for specific performance with respect to the suit properties.

(ii) After elaborate evidences, the learned Trial Court dismissed the suit filed by the petitioner on various grounds and one such perverse finding being that the petitioner was not in possession of the schedule mentioned property. The petitioner filled applications in the learned Trial Court wherein the learned Trial Court was pleased to grant interim injunction protecting the petitioner's possession. Aggrieved against the said orders, the respondents 1 to 5 preferred CMA before the District Court and the same was ordered in favour of the petitioner preserving and confirming the petitioner's possession. The respondents 1 to 5 did

not file any revision against the said orders and thereby petitioner's possession is still uninterrupted and continues as on date of this petition.

(iii) During the pendency of the suit the respondents No.1 to 5 had executed a sale deed to the 6th respondent vide sale deed as Doc. No.5803/2010 for one part of the suit property and the present property under the appeal. The case has been posted for arguments and since the learned Trial Court consciously eliminated the lease deed filed in the suit, the petitioner was advised to file a petition to mark the lease deed as a document in the present appeal and as such the same is pending

(iv) The scheduled mentioned property morefully described in the petition and in the plaint is the property of one Subbae Gowder by virtue of a partition deed in his favour for the extent of 8.12 acres situated at Pottainyandipurmpu Village abetting petitioner's other properties in the same village. The said Subbe Gowder is none other than petitioner's father's elder brother's son. The said Subbe Gowder made a livelihood by disposing of his one portion of land, formed as house sites to third parties from the year 1996 onwards. At one point of time when Subbe Gowder faced financial issues and due to his family commitments, he approached the petitioner for financial assistance. At first, Rs.1,00,000/- was given in 2000 for which he executed a lease deed dated 15-03-2000 and in lieu of the said lease, he had leased out his entire property.

(v) Subbe Gowder during the month of May 2000, approached the petitioner proposing the sale of the property and on continued persistence it had been decided to execute a sale agreement for the value of Rs.2,75,000/- by virtue of an agreement dated 25-05-2000 and the same had been executed. On 01-04-2001, he had made an endorsement on the back of the stamp paper for having received the balance agreed sale consideration of Rs.1,75,000/- as agreed in the sale agreement and he had also agreed to execute all the required documents. in due course to complete the sale process and had handed over the original Patta Passbook and had left the field leaving the possession with the petitioner as part performances in lieu of having received the entire sale consideration. The petitioner has been in continuous possession and enjoyment of the property without hassles since 15 March 2000.

(vi) During such time, pendency of A.S.111/2018, the 6th respondent filed petition before the Thasildhar, Kinathukadavu to include his name in the patta as a joint pattadharar. The Tahsildhar rejected the application filed by the 6th respondent, against which the 6th respondent preferred an appeal before the Sub Collector, Pollachi, wherein the petitioner has recorded his objections in the appeal. The learned Sub Collector forgoing the pendency of the case ordered for the inclusion of the name of 6th respondent in the patta. But, sorry state of affairs is other joined

pattadharar by name petitioner's vendor Subbe Gowder name was deleted without offering an opportunity to Subbe Gowder and also Perumalsamy the other pattadharars. If an opportunity had been given to the joint pattadharars for enquiry, the deletion of Subbe Gowder's name could not have arisen sue moto and the name in favour of the respondent could not have surfaced. Aggrieved against the order in appeal, preferred revision before the learned District Revenue Officer, wherein after enquiry the order of the appeal was confirmed in revision by observing that in the event the petitioner succeed in the appeal suit the name of the first respondent in the patta will be cancelled. Thereafter the petitioner filed a Writ Petition before the Hon'ble High Court, wherein order made in revision was confirmed.

(vii) Periodically notices were served on the petitioner for measurements and the petitioner has registered his objections periodically for the same. It is respectfully submitted that out of 8.12 acres of the scheduled mentioned property, the first respondent claims that he has title for 2.57 acres in the scheduled mentioned property. It is respectfully submitted that, the boundaries in the alleged sale deed had been wrongly demarcated; Further there is no reference as to which part of 2.57 acres is located within the entire field of 8.12 acres that have been in petitioner's possession for the past 22 years.

(viii) Therefore the petitioner was constraint to file suit in O.S.No.378 of 2022, praying for permanent injunction against the land owners abetting the petitioner's property and petitioner's vendor Subbe Gowder, the first respondent the District Collector at Coimbatore, the Thasildhar, Kinathukadavu, Deputy Thasildhar, Kinathukadavu, Surveyor, VAO praying for a permanent injunction and as such the defendant had entered appearance through Advocate in suit filed by the petitioner. The Court has granted time to Defendants to file their written statements. Further, the petitioner also filed an another suit in O.S.No.152/2023, praying for permanent injunction against the land owners abetting the petitioner's property and petitioner's vendor Subbe Gowder and the 6th respondent Baba Ramesh and the suit is pending before the learned Additional District Munsif Court at Pollachi. The petitioner also filed an application for temporary injunction that as initially granted and subsequently dismissed. Therefore, the petitioner filed C.M.A.No.7/2023 on the file of the Subordinate Judge Court at Pollachi and the same is pending.

(ix) During the pendency of appeal, the 6th respondent had executed a sale deed on 09-11-2023 to and in favour one B.Senthilkumar, the proposed 7th respondent herein and S.Prabhakaran, the proposed 8th respondent herein the above appeal. In the said sale deed the property there is a false statement that, there is no

encumbrance and pendency of the suit and the appeal were consciously suppressed in the sale deed, but the dismissal of the injunction petition in O.S.No.152/2023 has been kept as a document in the sale deed.

(x) During pendency of appeal, A.S.No.111/2018, the sale has been committed. Hence it is just and necessary that the subsequent purchasers of one part of the suit property under appeal have to be impleaded as a party to the proceedings. The 6th respondent Baba Ramesh's purchase based on the previous sale deed was under lispendence and therefore the present sale deed also under lis-pendence which is rendering the sale deed dated 09-11-2023 as null and void.

(xi) This Court may be pleased to implead the B Senthilkumar, the proposed 7th respondent herein and S.Prabhakaran, the proposed 8th respondent in the above appeal.

3. **The 2nd respondent filed counter and the same was adopted by the respondents No.1, 3 to 5. The averments contained in the counter are as follows:-**

(a) This petition is false, frivolous and vexatious and this petition is not maintainable in both law and facts of the case. These respondents do not admit any

of the averments made in the affidavit except that those which are specifically admitted herein and the plaintiff is put to strict proof of the same.

(b) The petitioner has filed this application to implead 7th and 8th respondents in this petition as respondents No.7 and 8 in the main appeal. This appeal was filed against the Judgement and decree in O.S.No.206/2010 on the file of the learned Subordinate Judge, Pollachi, dated 16-02-2018. The appeal was filed in the year 2018. This petition was filed on 04-12-2023. This petition is filed on the allegation that the Respondents 1 to 5 executed a sale deed to the 6th respondent vide Doc. No.5803/2010 for one part of the suit property and the present property under the appeal. The petitioner has not questioned the said sale deed from 2010 to 2025. This petition has been filed when the case was argued and the written argument was filed with an intention to prolong the case and see that the proceedings is pending alive. The petitioner sought the assistance of the learned Subordinate Judge of Pollachi to compare the signature of the 1st respondent in the sale agreement. As per the request, the petitioner was sent to the expert and the signature found in the agreement was compared by an expert and he has given a finding that the signature found in the agreement is not the signature of the 1st respondent.

(c) On that ground, and other aspects also considered and the learned Subordinate Judge. Pollachi dismissed the suit. Subsequently, when the appeal is pending the appellant managed to obtain an interim order as though he is in possession on an alleged lease deed by filing O.S.No.152/2022 before the learned District Munsif, Pollachi, in I.A.No:2/2022. It is pertinent to note that when the learned District Munsif, Pollachi were on leave, he managed to move before the Principal District Munsif Coimbatore and mislead the Court and obtained an order of injunction and the same was dismissed after contest on merits. These are all admitted facts. Now, at this stage with a view to drag on proceedings he wants to implead 7th and 8th respondents who are not necessary parties to this appeal. If he is really aggrieved, he has to file separate suit against the respondents No.6, 7 and 8. The petitioner has not come to the court with clean hands. The affidavit does not consist the reasoning to implead the respondent 7 and 8.

(d) The averments in para 5 that the 1st respondent was in financial crisis and he paid Rs.1,00,000/- in the year 2000 and executed lease deed on 15-03-2000 and in lieu of the said lease he had leased out entire property to the appellant is absolutely false and incorrect. Without prejudice to the respondent's contention that there is no such lease deed dated 15-03-2000 as alleged by the appellant. It is submitted that the appellant has already opted or waived the lease deed and he filed only suit

on the alleged agreement for specific performance. The said lease deed was not produced and he never claimed any possession on the basis of the said lease deed. Therefore, at this stage he cannot attempt to create a base for second round of litigation. The lease deed as alleged by the appellant cannot be pressed into service after 25 years and may hue and cry and say that there is a lease deed. In any event the appellant cannot take shelter under the alleged lease deed which is time barred. Moreover, there is no any allegation that he was personally cultivating the land. Therefore, the entire averments in para 5 and 6 are absolutely false and incorrect. The alleged agreement itself dated 25-05-2000 and the suit was filed in the year 2010. So, even the alleged agreement is time barred and the trial court has also given a finding that time barred. Therefore, these factors cannot be gone into in this interlocutory application which amounts to hearing the appeal itself. The petition filed by the 6th Respondent is no way gives any cause of action to file this frivolous petition. The averment that “but sorry state of affairs is joined pattadhar by name the vendor of the appellant Subbaiya Gounder was deleted without offering an opportunity to Subbaiva Gounder” is rather amusing since Subbaiya Gounder himself has never stated that he was not given an opportunity. The averment that on 01-04-2001 he had made an endorsement in the back of the stamp paper for having received the balance agreed sale consideration of Rs.1.75.000/- as

agreed in the sale agreement is absolutely false and incorrect. The agreement itself false and fabricated one.

(e) The averments made in para 8 and 9 are incorrect. The averment that the notices were served on the petitioner for measurements and he had registered objections periodically for the same is absolutely false and incorrect. The averment that the boundaries are wrongly demarked in the sale deed and there is no reference as to which part of 2.7 Acres is located within the entire field of 8.12 Acres that have been in possession of the petitioner for the past 22 years is absolutely false and incorrect. The petitioner was not in possession as alleged by him. On the other hand, the respondent 1 to 5 are only in possession and enjoyment of the same. The averments that O.S.No.378/2022 filed by the petitioner is no way relevant to decide this issue in the appeal, as such the said averment has been introduced only to camouflage the issue. The petitioner while the appeal is pending he filed O.S.No.152/2023 alleging that he is a cultivating tenant totally contrary to the pleadings in the appeal and tried to get into the possession. However, the interlocutory application was dismissed on merits. Therefore, the said averments are introduced only to mislead the Court.

(f) The averments made in para 10 of the affidavit are false and incorrect. The proposed parties namely the 7th and 8th respondent is no way connected to the subject matter of the present appeal and they are not necessary parties to this appeal. This application is filed only to drag the appeal proceedings after the arguments have been made and even the written arguments are filed in the main appeal itself. The averments made in para 11 and 12 are absolutely false and incorrect. There is no necessary to implead the 7th and 8th Respondent since as far as the property covered under the sale agreement is concerned is intact and there was no any sale made in respect of the property covered under the sale agreement. There is no merits in this petition and it lacks bona-fide and prays to dismiss the petition.

4. **The 6th respondent filed counter. The averments contained in the counter are as follows:-**

(i) The petition is false frivolous, vexatious and not sustainable both under law and on facts of the case. The averment contained in the affidavit of the I.A.1/2024 in the suit except those that are specifically admitted herein and the petitioner alone is strict to proof of the same. The 6th respondent purchased a portion of suit property to an extent of Acre 2.57 under registered as Doc.No.5803/2010. This

respondent's purchase is only for a part of his sale agreement entered with respondents 1 to 5 herein.

(ii) This respondent have sold the property purchased under Doc.No.5803/2010, registered at Kinathukadavu SRO, to the respondents 7 and 8 in the above petition. The respondents 7 and 8 are financiers in Erode and they are in practice to lend money only on execution of sale agreement or sale deed for the amount lent by them as loan to concern parties.

(iii) This respondent had executed a sale deed dated 09-11-2023 with respect to the property registered under Doc.No.5803/2010 registered at Kinathukadavu SRO only as a security document in favour of respondents 7 and 8 on an oral agreement entered between us to reconvey the same on repayment of loan amount. The respondents 7 and 8 herein are not the purchasers of title from me under sale deed stated 09-11-2023, with respect to the property registered under Doc.No.5803/2010 registered at Kinathukadavu SRO.

(iv) The respondents 7 and 8 herein are not having any interest, right or title over the sale deed dated 09-11-2023, registered at Kimathukadavu SRO, said to be executed by the 6th respondent, they need not become proper and necessary parties to implead them in the above suit. Hence, this petition has no merits and lack of bonofide and liable to be dismissed and prays to dismiss the same.

5. **The point that arises for consideration in this petition is that;** whether the proposed respondents have to be impleaded as respondents No.7 and 8 in the main appeal or not?

POINT:-

6. Heard and documents perused. This petition has been filed by the petitioner who is appellant, praying to implead the proposed respondents as respondents No.7 and 8 in the main appeal.

7. The learned counsel for the petitioner argued that, during the pendency of appeal, the 6th respondent had executed a sale deed on 09-11-2023 to and in favour one B.Senthilkumar, the proposed 7th respondent herein and S.Prabhakaran, the proposed 8th respondent herein the above appeal and in the said sale deed, there is a false statement that, there is no encumbrance and pendency of the suit and the appeal were consciously suppressed in the sale deed, but the dismissal of the injunction petition in O.S.No.152/2023 has been kept as a document in the sale deed. The learned counsel has further argued that, since the sale has been committed during the pendency of the appeal, it is just and necessary that the subsequent purchasers of one part of the suit property under appeal have to be impleaded as a party to the proceedings. The 6th respondent Baba Ramesh's purchase based on the previous sale deed was under lispendence and therefore the

present sale deed also under lis-pendence which is rendering the sale deed dated 09-11-2023 as null and void and prays to allow the petition.

8. The learned counsel for the respondents No.1 to 5 argued that, this appeal was filed against the Judgement and decree in O.S.No.206/2010 on the file of the learned Subordinate Judge, Pollachi, dated 16-02-2018. The appeal was filed in the year 2018 and the petitioner filed the present petition on 04-12-2023, on the allegation that the Respondents 1 to 5 executed a sale deed to the 6th respondent vide Doc.No.5803/2010 for one part of the suit property and the present property under the appeal. The petitioner has not questioned the said sale deed from 2010 to 2025. This petition has been filed when the case was argued and the written argument was filed with an intention to prolong the case. The respondents No.7 and 8 are not necessary parties to this appeal and if the petitioner is really aggrieved, he has to file separate suit against the respondents No.6, 7 and 8. The petitioner has not come to the court with clean hands and the affidavit does not consist the reasoning to implead the respondent 7 and 8 and prays to dismiss the petition.

9. The learned counsel for the 6th respondent argued that, this respondent purchased a portion of suit property to an extent of Acre 2.57 under registered as

Doc.No.5803/2010. This respondent's purchase is only for a part of his sale agreement entered with respondents 1 to 5 herein. Further, this respondent have sold the property purchased under Doc.No.5803/2010, registered at Kinathukadavu SRO, to the respondents 7 and 8 in the above petition. The respondents 7 and 8 are financiers in Erode and the alleged sale happened only as only as a security document in favour of respondents 7 and 8 on an oral agreement entered between us to reconvey the same on repayment of loan amount. The respondents 7 and 8 herein are not the purchasers of title from the 6th respondent under sale deed stated 09-11-2023, with respect to the property registered under Doc.No.5803/2010 registered at Kinathukadavu SRO. The learned counsel for 6th respondent has further argued that, the respondents 7 and 8 herein are not having any interest, right or title over the sale deed dated 09-11-2023, registered at Kimathukadavu SRO, said to be executed by the 6th respondent, they need not become proper and necessary parties to implead them in the above suit and hence, this petition has no merits and lack of bonofide and prays to dismiss the petition.

10. This Court has considered the rival submissions of both side and perused the records. The petitioner namely K.Shanmukha Sundaram has filed the suit in O.S.No.206/2010, before the learned Subordinate Judge, Pollachi, against the respondents No.1 to 6, seeking the relief of specific performance and permanent

injunction. After hearing both sides, the learned Subordinate Judge, Pollachi dismissed the suit. Aggrieved over the same, the petitioner herein filed appeal in A.S.No.111/2018, against the decree and judgment passed by the learned Subordinate Judge, Pollachi, in O.S.No.206/2010, dated 16-02-2018. During the pendency of the above said appeal, the petitioner / appellant filed the present petition, praying to implead the proposed respondents No.7 and 8 as respondents No.7 and 8 in the main appeal.

11. According to the petitioner, during the pendency of appeal, the 6th respondent had executed a sale deed on 09-11-2023 to and in favour one B.Senthilkumar, the proposed 7th respondent herein and S.Prabhakaran, the proposed 8th respondent and since the sale has been committed during the pendency of the appeal, it is just and necessary that the subsequent purchasers of one part of the suit property under appeal have to be impleaded as a party to the proceedings. Further, the 6th respondent Baba Ramesh's purchase based on the previous sale deed was under lispendence and therefore the present sale deed also under lis-pendence which is rendering the sale deed dated 09-11-2023 as null and void.

12. Whereas, the contention of the respondents No.1 to 5 is that, judgment was passed in the suit in the year 2018 and the petitioner filed the appeal in the year 2018 and the present petition was filed in the year 2024 i.e., the petitioner herein, without questioning the alleged sale deed from the 2010 to 2025, has now come forward with the present petition alleging that the respondents 1 to 5 executed a sale deed to the 6th respondent vide Doc.No.5803/2010 for one part of the suit property and the present property under the appeal. The petitioner has filed the present petition with a view to drag on the proceedings and further if the petitioner really aggrieved, he has to file separate suit and not by way of adding the proposed party as respondents No.7 and 8.

13. The contention of the 6th respondent is that, this respondent has sold the property which was purchased by him in year 2010 to the respondents 7 and 8. The respondents 7 and 8 are financiers in Erode and the alleged sale happened only as only as a security document in favour of respondents 7 and 8 on an oral agreement entered between us to reconvey the same on repayment of loan amount. The respondents 7 and 8 herein are not the purchasers of title from the 6th respondent and they have no interest, right or title over the sale deed dated 09-11-2023 and hence, they need not become proper and necessary parties to implead them.

14. Admittedly, the petitioner herein filed the suit against the respondents No.1 to 6, seeking the relief of specific performance and permanent injunction and the said suit was dismissed by the learned Trial Judge and aggrieved over the same, the petitioner filed appeal in A.S.No.111/2018. During the pendency of the appeal suit, the 6th respondent had executed a sale deed in favour of the proposed respondents No.7 and 8, as such, the proposed respondents are the subsequent purchasers of the property which is the subject matter of the suit as well as appeal suit. Taking into consideration of all the above, this Court is of the considered view that, the subsequent purchasers i.e., the proposed respondents No.7 and 8 are proper parties to ensure effective adjudication, particular in suit for specific performance and accordingly the respondents No.7 and 8 are to be impleaded as respondents No.7 and 8 in the main appeal. Point is answered accordingly.

In the result, this petition is allowed. No cost.

This order is dictated to steno-typist directly, typed by her in computer, corrected and pronounced by me, the order in open Court, on this the 21st day of April, 2026.

PRINCIPAL DISTRICT JUDGE,
COIMBATORE.

//True copy//

Draft Order in
I.A.No.1/2024 in
A.S.No.111/2018
Dated:21-04-2026.