

IN THE COURT OF THE SUBORDINATE JUDGE, POLLACHI

PRESENT: Thiru. **M.Manikandan**, M.A., M.L., PG.D.C.F.Sc.,
Subordinate Judge, Pollachi

Tuesday, the 03rd day of February 2026
(2056, Thiruvalluvar Andu, Visuvavasu Varudam, Thai Thingal 21st day)

IA No.3/2025 in OS No.120/2024

Santhamuthukumarasamy

..Petitioner/3rd Party/Proposed 4th defendant
/vs/

1. M.Sasikala
2. K.Renukadevi
3. M.Ramakrishnan
4. P.Subashini
5. R.Arunkumar

.. Respondents / Plaintiffs

6. A.Senthilkumar
7. Muthulakshmi
8. Selvathal

..Respondents/Defendants 1 to 3

This petition is coming on 28.01.2026 for final hearing before me in the presence of Thiru.S.Suresh, M.A., B.L., Advocate for the Petitioner/Proposed 4th defendant, Thiru.A.Senguttuvan, B.Sc., B.L., Advocate for the Respondents/Plaintiff and 6 to 8 Respondents/Defendants called absent, set exparte and upon perusing documents, upon hearing the both side arguments, this court delivered the following

ORDER

The petitioner filed this petition under order I Rule 10 and Section 151 of CPC praying to order to implead petition as the 4th defendant in the main suit and pass such other orders and thus render justice.

1. The averments in the petition is as follows:

The petitioner herein 3rd party in the above suit. The respondents 1 to 5 have filed this suit against the respondents 6 to 8 for the relief of recovery of money of

Rs.6,84,375/- towards arrears of rent for the years 2021-2022 to 2023-2024 with subsequent interest at 12% per annum and for other reliefs. The petition mentioned property originally belonged to one Marimuthammal, W/o. Muthukumarasamy Gounder and her sister Rathinammal there was a registered Settlement deed dated 05.08.1972 and also a Will dated 04.11.1988 executed by Marimuthammal. They have also chosen to mention that there was a lease to one Arumugam and he was a statutory tenant in respect of the agricultural property and later on he died and the defendants are his legal heirs. The defendants are in possession and enjoyment of the property as tenants. The defendants failed to pay the lease amount for the past several years and they are chronic defaulters. The erstwhile landlady Marimuthammal filed applications before the Special Deputy Collector (Revenue Court) for eviction and the plaintiffs are the pursuing the eviction petition.

1.2) The plaintiffs suppressed very many proceedings including one suit, two appeals, pendency of S.A.No.343/2012 and S.A. No.344/2012 before the Hon'ble High Court of Judicature at Madras and also the pendency of Civil Revision Petition as against the order passed by the Special Deputy Collector. The proceedings in respect of the suit property in O.S.No.333/1948 on the file of District Munsif as the said Marimuthammal obtained a decree with a restrictive clause that she will not encumber the property till her lifetime and after her lifetime her shall devolve on the male children and in case of no male issue, then to the female issue and in case of no issues, after the lifetime of Marimuthammal, her share of the properties shall be

enjoyed by the rightful heirs according to law. The said Marimuthammal executed a Settlement Deed and a Will by not considering the decree and judgment and also by not considering the subsequent decree and judgment in OS No.13/1974 and 1064/1973 wherein also it has been decided that Marimuthammal had no right to execute any Settlement deed or has no right to make encumbrance over the property and the above said decree has not been challenged anywhere.

1.3) The suit in OS No.714/2004 was decreed in favour of the petitioner father Balasubramania Gounder and as such petitioner father is the absolute owner of the property. The said decree in OS No.714/2004 was challenged by way of two separate appeals in A.S. No.10/2011 and AS No.26/2011 before this court. Both the appeals were allowed on 18.10.2011. Petitioner father Balasubramania Gounder executed a Will on 16.12.2010 in respect of the suit property and registered before Anamalai Sub Registrar Office. The demise of petitioner father Balasubramania Gounder the petitioner filed necessary impleading application on the basis of the Will executed by petitioner father, in both the second appeals and as such the petitioner have been added as the appellant in both the appeals and the said appeals are now pending. The said order was challenged by the plaintiffs herein before the Hon'ble High Court of Judicature at Madras, without impleading the petitioner father as a party and as per the direction of the Hon'ble High Court, the Special Deputy Collector allowed the plaintiffs to be impleaded as the party. The petitioner the owner of the suit property at present and the title is also to be decided in the pending second appeals, the petitioner

necessary party to the suit. Any orders that may be passed in the suit will be binding on the suit property and the respondents may in future that the decree is binding on petitioner also. The petitioner necessary party to the proceedings. Hence the petition.

2. The averments in the counter statement filed by the 3rd respondent adopted by the respondents 1, 2, 4 and 5 are as follows:

The petition is false, frivolous, vexatious and not maintainable either on law or on facts of the case. The actual possession of the suit properties is with the tenants namely respondents 6 to 8 only. The respondents 6 to 8 are fully aware of the case and nothing to defend the case They have instigated the petitioner to file this application without any legal basis. The petitions before the Revenue Court is for eviction of the tenant Arumugam and after the death of tenant Arumugam against the respondents 6 to 8 as legal heirs of Arumugam. Those petitioners were filed by Marimuthammal and after her death the proceedings are continued by the respondents 1 to 5 on the basis of documents. In the above proceedings also the petitioner has filed an impleading petition and since his petitions were dismissed, he has filed a revision petition after a long gap of time. The plaintiffs/respondents 1 to 5 have not received any Notice in the above said Revision petition filed by the petitioner before the Hon'ble High Court of Madras. The suit properties and other properties originally belonged to Parvathammal, mother of Marimuthammal and her sister Rathinammal. Marimuthammal's husband S.P.Muthukumarasamy gounder got a sale deed with regard to some extent of landed properties from her Mother-in-law Parvathammal without the knowledge of Marimuthammal and her sister Rathinammal.

S.P.Balasubramaniam father of the petitioner herein got a lease deed from Parvathammal with regard to some of the landed properties of Parvathammal questioning the sale deed and lease deed a case was filed by Marimuthammal and Rathinammal against their mother Parvathammal. S.P.Muthukumarasamy gounder and S.P.Balasubramaniam before Sub Court, Coimbatore in O.S.No.333/1948 which ended in a Compromise decree in the year 1952. As per the said Compromise Decree the suit properties and other properties were allotted to Marimuthammal and her husband equally. Muthukumarasamy died intestate in the the year 1972. After his demise Marimuthammal as legal heir of her husband obtained his absolute owner. As such Marimuthammal executed a settlement deed in the year 1972 in favour of her sister Rathinammal's daughters namely Manohari, Sasikala and Ranukadevi in respect of a portion of her lands Marimuthammal also had executed a Registered Will in the year 1988 with regard to her remaining landed properties in favour of Manohari, Sasikala and Renukadevi.

2.2) Marimuthammal died in the year 2002. As such Manohari, Sasikala and Renukadevi became the absolute owners of the properties mentioned in the settlement deed dated 05.08.1972 and Will dated 04 11.1988. The certified copy of settlement deed and Will have been produced before this Honourable Court and marked as exhibits A2 and A3. Those suits have nothing to do with the present suit. Balasubramaniam, father of the petitioner herein is not the rightful heir of Marimuthammal claiming herself as the legal heir of Marimuthammal and her

properties, Balasubramaniam filed O.S.No.714/2004 before the Munsif Court of Pollachi and it was decreed. Against the said decree and judgment appeals were filed in A.S.No.20/2011 and A.S.No.26/2011 before this Hon'ble court and both appeals were allowed as stated in the affidavit. Against the decree and judgment A.S.No.20/2011 and A.S.No.26/2011 two appeals were filed by Balasubramaniam, father of the petitioners herein and they are pending. There is no stay of the Decree and judgment in A.S.No. 10/2011 and 26/2011 till date. As such the petitioner is not the owner of the suit property as on date and she has no locus standy to file this petition. If she is the real owner she should have taken the steps to recover rents from the tenants. She has not filed any suit to recover the rents from the tenant Arumugam and the respondents 6 to 8 so far. Limitation for claiming rent is 3 years only. The respondents plaintiffs 1 to 5 have filed this suit for the recovery of rent on the basis of registered Documents that are marked herein as exhibits Chitta and other documents have also been produced in support of their case.

2.3) Now only after perusing the affidavit the plaintiffs are aware of the fact that the petitioner has filed a Revision petition before the High Court, Madras against the order of Special Deputy Collector and the same is pending. As on date the plaintiffs are the owners of the suit property and they have every right for the recovery of rents due from respondents 6 to 8 and filed the present suit. If the plaintiffs have to wait till the disposal of the second appeals, the question of limitation will arise as a hindrance to recover the arrears of rent. The petitioner has

not taken any steps to recover the rent from the tenant at any point of time, because he has no right over the suit properties. It shows that the petitioner is colluding with the respondents 6 to 8 to safeguard them from paying the rent. The present petition has been filed with an ulterior motive. Since the petitioner has no right over the suit properties as on date he cannot be added as a party in the present suit and he is not a necessary party also. Hence this petition is to be dismissed with costs.

3. In this petition no oral and documentary evidence were adduced on both side.

4. Both side arguments heard.

5. POINT FOR CONSIDERATION in this petition is

Whether this petition is to be allowed or not?

6. POINT:

In this petition, on behalf of either side, no witnesses were examined and no documents were marked.

a) On careful perusal of the petition, it is seen that the petitioner has filed this petition seeking to implead himself as a proper and necessary party to the suit. On careful perusal of the case records, it is seen that the plaintiffs have filed the suit against the defendants for the relief of recovery of a sum of Rs.6,84,375/- towards arrears of rent with subsequent interest. The petitioner pleaded that the property mentioned in the petition originally belonged to one Marimuthammal, wife of Muthukumarasamy Gounder, and her sister Rathinammal, and that there was a

registered Settlement Deed dated 05.08.1972 and also a Will dated 04.11.1988 executed by Marimuthammal. The petitioner further contended that as per the said Will and Settlement Deed, he has become the owner of the property. The plaintiff in the suit pleaded that the defendants are in possession and enjoyment of the property as tenants. The petitioner pleaded that upon receipt of the court summons along with the plaint copy, the 1st defendant handed over the relevant documents, through which the petitioner gained knowledge about the suit and its pleadings. The petitioner further pleaded that the plaintiffs suppressed several proceedings, including one suit, two appeals, and the pendency of S.A. No.343/2012 and S.A. No.344/2012 before the Hon'ble High Court of Judicature and a Civil Revision Petition pending before the Hon'ble High Court, as well as the order passed by the Special Deputy Collector. He further pleaded that the petitioner is a party to both the appeals before the Hon'ble High Court and that the plaintiffs were fully aware of the proceedings, but unfortunately suppressed these vital facts and misled this Court to file the suit and get it numbered. The petitioner pleaded that since he is the present owner of the property and is a party to the appeals, he is a necessary party to be impleaded in the suit.

b) Per contra, the respondents filed a counter statement and denied all the averments stated in the petition. The respondents pleaded that the suit property and other properties originally belonged to Parvathammal, the mother of Marimuthammal and her sister Rathinammal. Marimuthammal's husband, S.P. Muthukumarasamy Gounder, obtained a sale deed with regard to some extent of landed properties from

his mother-in-law Parvathammal, without the knowledge of Marimuthammal and her sister Rathinammal. Thereafter, S.P.Muthukumarasamy Gounder and S.P.Balasubramaniam filed a suit before the Sub Court, Coimbatore in O.S. No.333/1948, which ended in a compromise decree in the year 1952. As per the compromise decree, the suit properties and other properties were allotted equally to Marimuthammal and her husband. Muthukumarasamy died in the year 1972. Consequently, Manohari, Sasikala, and Renukadevi became the absolute owners of the properties mentioned in the Settlement Deed dated 05.08.1972 and the Will dated 04.11.1988. Against the said decree and judgment, appeals were filed in A.S. No.20/2011 and A.S. No.26/2011 before this Court. The said appeals were filed by Balasubramaniam, the father of the petitioner herein, and are still pending. There is no stay of the decree and judgment in A.S. Nos.20/2011 and 26/2011 till date. It is further pleaded that the petitioner is not the owner of the suit property as on date and has no locus standi to file this petition. It is also stated that if the petitioner were the real owner, he should have taken steps to recover rents from the tenants, but no such suit has been filed. After the demise of Marimuthammal, the plaintiffs herein filed applications to implead themselves as parties and also filed petitions to implead the petitioners as a party in O.Ps. before the Revenue Court. Both petitions were dismissed by the Special Deputy Collector. Thereafter, the plaintiffs filed Revision Petitions before the Hon'ble High Court of Madras, and the same were remanded to the Special Deputy Collector for fresh consideration after perusal of the documents.

Since Balasubramaniam did not prefer any Revision Petition before the Hon'ble High Court within the prescribed time, only now the plaintiffs become aware that the petitioner had filed a Revision Petition before the Hon'ble High Court against the order of the Special Deputy Collector. As on date, the plaintiffs are the owners of the suit property and have every right to recover the rents due from respondents 6 to 8 and have filed the present suit. If the plaintiffs are made to wait till the disposal of the second appeals, the question of limitation would arise as a hindrance to recover the arrears of rent. Since the petitioner has no right over the suit property as on date, he cannot be added as a party to the present suit and is not a necessary party. Hence the respondents seeks the petition is liable to be dismissed.

c) Considering the rival submissions, this Court finds that the Petitioner/Third party/Proposed 4th defendant, has filed this petition seeking to implead himself as a party to the proceedings. The petition stated that after the demise of his father, Balasubramania Gounder, he filed necessary impleading applications on the basis of the Will executed by his father in both the second appeals and as such, he has been impleaded as the appellant in both appeals, which are presently pending. The petitioner further stated that the plaintiffs, being fully aware of the pendency of both appeals before the Hon'ble High Court, suppressed these vital facts and misled this Court to file the suit and get it numbered. He also pleaded that he is the present owner of the property and that title is to be decided in the second appeals. Hence, he claimed that he is a necessary party to the suit and sought to allow the petition.

d) On behalf of the respondents, a counter was filed and arguments were advanced contenting that the petitioner's right, if any, has to be decided only in the second appeals. It was further argued that the petitioner has colluded with the defendants and filed the present petition only to create hindrance to the plaintiffs and to protract the proceedings. The learned counsel for the respondents argued that the petitioner is neither a necessary party nor a proper party to the present suit.

The respondents relied upon the judgment reported in **(2010) 7 Supreme Court Cases 417 MUMBAI INTERNATIONAL AIRPORT PRIVATE LIMITED Vs REGENCY CONVENTION CENTRE AND HOTELS PRIVATE LIMITED AND OTHERS**

Civil Procedure Code, 1908 – Or. 1 R. 10(2) – Discretion of Court to add parties – Nature and scope of, and mode of exercise – Or. 1 R.10(2), held is an exception to general rule in regard to impleadment of parties that plaintiff may choose defendants and he cannot be compelled to sue a person against whom he seeks no relief.

- Discretion of court to add a person as party, held, is limited to persons found to be necessary party to proper party – Moreover, such discretion is judicial discretion and has to be exercised according to reason and fair play and not according to whims and caprice – Expressions “necessary party” and “proper party” explained.

e) Relying on the above judgment, the respondents counsel argued that the petitioner has not explained how he is a necessary or proper party to the suit. It was further argued that the petitioner's claim that he came to know about the suit only

through the 1st defendant is false and that the petitioner and defendants have colluded to drag on the proceedings. Considering the rival submissions, this court finds that as on date the plaintiffs are the owners of the suit property. As admitted by the petitioner, the title to the suit property is yet to be decided in the second appeals. The Revision Petition filed against the order of the Special Deputy Collector is also pending before the Hon'ble High Court. Thus, it is clear that the petitioner has not established his ownership over the suit property. At present, title vests with the plaintiffs.

f) This Court, therefore, comes to the conclusion that the petitioner has not shown at any stage that he is a necessary or proper party to be impleaded in the suit. The petition has also been filed at the fag end of the proceedings and cannot be entertained at this stage. Accordingly, this court finds that the petitioner is neither a necessary party nor a proper party to the present suit. Therefore, the petition lacks merit and not at all deserves to be appreciated at this stage. Hence the petition is dismissed.

7. As a result, this petition is dismissed. No cost.

The order is dictated to the steno-typist, transcribed and typed by her in the computer, corrected and pronounced by me in open court, dated this the 03rd day of February 2026.

Subordinate Judge,
Pollachi.

Both side Exhibits & Evidences: Nil

Subordinate Judge,
Pollachi.

Fair / Draft Order
IA No.3/2025
in
OS No.120/2024
SJ Pollachi.