



**THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ANNUR.**

PRESENT: Tmt.V.Monika, B.A., B.L., L.L.M.,
District Munsif cum Judicial Magistrate, Annur.

On this Tuesday, the 10th day of March, 2026.

I.A.No.4/2024
in
O.S.No.86/2023
(CNR.No.TNCB210006852023)

R.Palanisamy Petitioner / 3rd Party

//Versus//

N.V.Kavin Prasath Respondent/Plaintiff

1. V.Manoharan

2. N.Baba Prasath Respondents/Defendants

This petition is coming for final hearing before this court in the presence of Learned Advocate Mr.Sivakumar for the Petitioner / 3rd Party, learned Advocate Mr.R.Balaji for the Respondent/Plaintiff and upon perusal of material records and having stood over till this date for consideration, this court delivers the following :

ORDER

This petition has been filed by the Petitioner / 3rd party under Order 1 rule 10 of CPC to implead the petitioner as Defendant No. 3 in the suit and pass such other further orders and thus render justice.



2. Brief averments of the Petition:

a. The petitioner is the third party to the suit. In Sarkar Samakulam Village SF number 601, which was plotted into sites and in which site number 385 was purchased by the petitioner on 22.08.2007, under the sale deed in document number 10123/2007. To reach that site, a 20 feet width East-West and North-South Road left is being used by the petitioner. The plaintiff of the suit purchased site number 391 of the above said plot. He also need to use the above 20 feet wide East-West, North-South Road. Before three years, this petitioner by stating that his extent was found to be lesser and attempted to close the North-South Road. But it was thwarted by the petitioner and other site owners. Before two days, the petitioner installed a board in the property regarding pendency of the suit and on enquiry, it was known that with intention to encroach the public pathway, by naming his two known person as defendants, he filed this suit in order to unlawfully encroach the property based upon the exparte decree. If the suit would be decided in favour of the plaintiff, the pathway to reach the petitioner's house, would be entirely blocked. So, the petitioner is a necessary party to the suit. Hence, the petitioner prays to order for impleading the petitioner as the third defendant to the suit.

3. Counter averments of Respondents/Plaintiff :

By denying the entire petition averments as false, the case of the respondent/plaintiff set out in the counter is as follows. The burden of proving all the



petition mentioned averments related to his ownership over site number 385, the necessity to use 20 feet width East-West, North-South pathway leads to his property are all lies on the petitioner. It is admitted that the respondent/plaintiff is the owner of site number 391. The above said 20 feet width North-South Road ended at the petitioner's suit property and turned towards East. Other averments of the petition are imaginary contents. The petitioner shall not be permitted to implead himself as a party, as the facts alleged by him are all differs with the prayers sought for in the suit by the respondent/plaintiff. The petitioner causes disturbances to the respondent from peacefully enjoying the suit property. The petitioner filed this petition, on instigation of the defendants. There is no necessity for the petitioner to be impleaded as party to the suit. Hence, the respondent/plaintiff prays to dismiss the petition.

4. The respondents/defendants were remained exparte in the suit and they are not contesting the suit. No witness was examined by both parties and no documents were exhibited by them.

5. Points for Consideration:

Whether this petition u/O. 1 Rule 10 of CPC should be allowed and the petitioner/third party is liable to be impleaded as the 3rd defendant in the suit?

**Discussions and decision:-**

6. Both side counsels enquiry heard. The available case records are perused. The main suit was filed by the respondent/plaintiff for the relief of preventive permanent injunction against the defendants of the suit. The present petitioner is the third party to the suit proceedings, he filed the present petition seeking his participation in the suit proceedings as third defendant. The main contention of the petitioner to participate in the present suit is that the respondent/plaintiff had actually attempted to encroach upon the public pathway, since he claimed that his extent of the property was found to be lesser.

7. The suit was filed by the respondent/plaintiff only for the relief of preventive injunction against the defendants of the main suit, who were allegedly causing trouble and disturbance for the peaceful possession and enjoyment of the suit property. The respondent/plaintiff is the Dominus Litus of the present suit. The cause of action alleged in the present suit doesn't have any relation with that of the claim of the petitioner. In such circumstance, the petitioner/3rd party to the suit doesn't have any prima facie right to be impleaded as a defendant to the suit. If the petitioner/third party to the suit need to seek any prayer against the respondent/plaintiff, then he must have to initiate appropriate proceedings legally for the alleged encroachment attempt, but he did not have any right or issue that has to be determined in the present suit by having the petitioner as party to it.



8. No proper reason has been elucidated by the petitioner for need of his participation as a defendant to this suit for injunction simpliciter. In order to decide an application under Order 1 Rule 10 CPC, the Court has to consider whether the applicant is a necessary party or proper party. A necessary party is one, without whom no effective decree can be passed, and a proper party is one, whose presence enables complete adjudication of the issues involved. In the present case, the dispute in the suit is confined to alleged interference by the defendants with the plaintiff's possession. The petitioner's claim regarding right of pathway constitutes an independent cause of action, which cannot be adjudicated in the present suit for bare injunction. So, the petitioner is neither a necessary party nor a proper party. Hence, the court finds that the participation of the petitioner is not at all warranted in the facts and circumstances of this suit and so this petition is dismissed.

Directly typed by me in my official laptop, corrected and pronounced by me in the open court on this 10th day of March, 2026.

District Munsif cum Judicial Magistrate,
Annur.

Both side Exhibits Marked : - NIL -

District Munsif cum Judicial Magistrate,
Annur.

Draft/Final Order

I.A. No. 4/2024 in

O.S. No. 86/2023

Dated : 10.03.2026.

DM cum JM, Annur.

**THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE, ANNUR.**

PRESENT: Tmt.V.Monika, B.A., B.L., L.L.M.,
District Munsif cum Judicial Magistrate, Annur.

On this Tuesday, the 10th day of March, 2026.

I.A.No.4/2024
in
O.S.No.86/2023
(CNR.No.TNCB210006852023)

R.Palanisamy (42) S/o. Rajamanikam,
D.No. 385, EB Colony, Sarkar Samakulam,
Kurumbapalayam, Coimbatore – 641 107.

.... Petitioner / 3rd Party

//Versus//

N.V.Kavin Prasath (43) S/o. P.Vadivel,
D.No.1/717, East Street, Nallur,
Nanthampalayam, Paramathi Taluk,
Namakkal District – 637 203.

.... Respondent/Plaintiff

1. V.Manoharan (50)

Site No. 399, EB Colony, Aathithya Collage Opposite,
Kurumbapalayam, Sarkar Samakulam, Coimbatore – 641 107.

2. V.Baba Prasath (38) S/o. R.Natarajan,

Site No. 400, EB Colony,
Aathithya College Opposite, Kurumbapalayam,
Sarkar Samakulam, Coimbatore – 641 107.

.... Respondents/Defendants

This petition has been filed by the Petitioner / 3rd party under Order 1 rule 10 of CPC to implead the petitioner as Defendant No. 3 in the suit and pass such other further orders and thus render justice.

Date of petition : 10.04.2024.

This petition is coming for final hearing before this court in the presence of Learned Advocate Mr.Sivakumar for the Petitioner / 3rd Party, learned Advocate Mr.R.Balaji for the Respondents/Plaintiff and upon perusal of material records and having stood over till this date for consideration, this court doth order and final order as follows:

i) that the petition be and hereby is dismissed.

ii) that there shall be no cost.

Memo of Cost

- Both side cost list not filed -

Schedule of Property

- Nil -

Given under my hand and the seal of this court, this the 10th day of March, 2026.

District Munsif cum Judicial Magistrate,
Annur.

Final Order in :
I.A. No. 4/2024 in
O.S. No. 86/2023
Dated : 10.03.2026.
DM cum JM, Annur.