

**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 Monday, the 4<sup>th</sup> day of August, 2025.**

**I.A.No.6/2024**  
**in**  
**O.S.No.166/2024**  
(CNR.No.TNCB21-001623-2024)

Previous case details of this case:-

IN THE COURT OF THE II<sup>ND</sup> ADDITIONAL DISTRICT MUNSIF COIMBATORE.

**I.A.No.4/2022**  
**in**  
**O.S.No.1577/2008.**

Pushpa

.... Petitioner / Plaintiff

//Versus//

1. Thilakavathi
2. L.Anbukarasu
3. L.Gopal
4. Thulasiammal
5. Saraswathi
6. Tahsildhar (N) Coimbatore

.... Respondents/Defendants

7. P.Poongothai
8. P.Kalyanasundaram
9. P.Subbulakshmi

.... Respondents / Proposed parties

This petition is coming for final hearing before this court in the presence of Learned Advocate Mr.S.Ramanathan for the Petitioner/Plaintiff, learned Advocate Mr.K.Rajasekar for the 2<sup>nd</sup> & 3<sup>rd</sup> Respondents/Defendants and learned Advocate Mr.Rajithkumar for the 4<sup>th</sup> Respondent/Defendants and R1, R7 to R9 were set exparte, and after hearing both sides, 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/plaintiff under Order 1 rule 10 of CPC to implead the proposed parties as defendants in the main suit.

#### **2. Brief averments of the Petition:**

The petitioner is the plaintiff. The 5<sup>th</sup> defendant who was already added as a party to the suit was not interested in this case and so she was exonerated by the previous counsel as per the petitioner's instruction. Subsequently the suit was dismissed against the 5<sup>th</sup> defendant for non-payment of process. The 5<sup>th</sup> defendant died long back by leaving behind her son and two daughters, who are the necessary parties to the suit. Hence it is prayed to allow this petition to implead the proposed parties as they are required to be impleaded as necessary parties to the suit.

#### **3. Counter statement filed by the 2<sup>nd</sup> & 3<sup>rd</sup> Respondents:**

The averments of the petition and affidavit was partly admitted and for partly denied by the respondents 2 & 3. The plaintiff/petitioner counsel previously admitted

to exonerate the 5<sup>th</sup> defendant. But the petitioner/plaintiff failed to pay batta. Subsequently the next counsel engaged by the petitioner/plaintiff filed a memo and so 5<sup>th</sup> defendant was exonerated. Later the suit proceeded. The 5<sup>th</sup> defendant died in between. Her legal representatives were not impleaded for a long time and now this petition was filed to implead her legal representatives as parties to the suit, which cannot be legally done when the 5<sup>th</sup> defendant itself exonerated. The date of death was not mentioned in the petition, her death certificate and legal heir certificate were not provided to these 2<sup>nd</sup> , 3<sup>rd</sup> respondents and so it is strongly objected to implead the legal representatives of the 5<sup>th</sup> defendant as parties to the suit. Hence it is prayed to dismiss the petition with cost.

4. No counter filed by remaining respondents/defendants, so they are set exparte and no objections raised by them. The 4<sup>th</sup> respondent filed a memo stating that she had no objection to this petition.

#### **5. Points for Consideration:**

Whether this petition u/O.1 Rule 10 of CPC should be allowed and the proposed parties are permitted to be impleaded as parties to the suit?

6. Neither party has examined any witnesses or exhibited any documents.

### **Discussion:-**

7. Both sides counsels were heard and the case records perused. The petitioner is the plaintiff in the main suit, filed for the relief of partition. The suit is presently pending in the stage of examination of the defendant side witnesses. Subsequent to closure of plaintiff side evidence, so far no witness was examined by the defendants due to filing of this petition. The 4<sup>th</sup> respondent filed a memo stating that he had no objection to this petition. The 6<sup>th</sup> defendant was made exparte in the suit. The 1<sup>st</sup> respondent/1st defendant was set exparte in this petition. No counter was filed by 7<sup>th</sup> defendant despite service of notice and the 8<sup>th</sup> respondent were set exparte. The 2<sup>nd</sup> and 3<sup>rd</sup> respondents/defendants were only contesting this petition.

8. Both parties stated that the 5<sup>th</sup> defendant was exonerated in this suit. But on perusal of the notes of the suit, only the 6<sup>th</sup> defendant, the Tasildhar (North, Coimbatore) was exonerated through memo on 14.12.2012. But to such effect, no amendment was made in the original plaint. Without service of summon to the 5<sup>th</sup> defendant, the suit was proceeded and in these circumstances the petitioner/plaintiff has came up with the present petition to implead the legal representatives of the 5<sup>th</sup> defendant as the parties to the suit by stating that they are necessary parties. As already stated above, eventhough the petitioner/plaintiff, 2<sup>nd</sup> and 3<sup>rd</sup> respondents admitted that the 5<sup>th</sup> defendant was exonerated in the suit, it was not reflected in the case records.

9. Since the suit being a partition suit, the participation of all the persons who are all having shares in it is just and necessary to attain finality of the proceedings and without which, the shares of the properties could not be properly determined. Even though in the plaint as well as in the petition and in counter, the respective parties were failed to express the relationship between the petitioner/plaintiff with the 5<sup>th</sup> defendant. But the recitals of the plaint would goes to show that the mother of the petitioner/plaintiff, Kaliasammal died by leaving behind the petitioner/plaintiff and the 4<sup>th</sup>, 5<sup>th</sup> defendant. So it can be inferred that the 5<sup>th</sup> defendant is the sister of the petitioner/plaintiff. When the plaintiff is claiming her share in the property through her mother, the respondents/proposed parties were also having equal share over the property that would be attained by their mother, the 5<sup>th</sup> defendant, if she was alive. Since there is a confusion with regard to exoneration of the 5<sup>th</sup> defendant and from the notes paper of the suit never shows that the 5<sup>th</sup> defendant was exonerated or set exparte, when the 2<sup>nd</sup> and 3<sup>rd</sup> respondents admitted the demise of the 5<sup>th</sup> defendant, this court considers that the legal representatives of the 5<sup>th</sup> defendant are the necessary parties to the suit. As per the provision of Order 1 rule 10, it empowers the court to order that any person who ought to have joined or whose presence may be necessary to adjudicate effectually, completely and to settle all questions involved in the suit, may be added as plaintiff or defendant either upon application or not. Hence, this court considers, that the participation of the legal heirs of 5<sup>th</sup> respondent, who are also having equal property rights jointly as that of the plaintiff, this court finds that

their participation is necessary for obtaining complete and effectual adjudication in the present suit.

**In the result,**

*the petition is allowed. No cost.*

Dictated to the steno-typist, directly typed by her in the official desktop, corrected and pronounced by me in the open court on this 04<sup>th</sup> day of August, 2025.

Sd/- V.Monika  
District Munsif cum Judicial Magistrate,  
Annur.

**Both side Exhibits Marked : - NIL -**

Sd/- V.Monika  
District Munsif cum Judicial Magistrate,  
Annur.

**Draft/Fair Order**

*I.A. No. 6/2024 in*

*O.S. No. 166/2024.*

*Dated : 04.08.2025.*

*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 Monday, the 4<sup>th</sup> day of August, 2025.**

**I.A.No.6/2024**  
**in**  
**O.S.No.166/2024**  
(CNR.No.TNCB21-001623-2024)

Previous case details of this case:-

IN THE COURT OF THE II<sup>ND</sup> ADDITIONAL DISTRICT MUNSIF COIMBATORE.

**I.A.No.4/2022**  
**in**  
**O.S.No.1577/2008.**

Pushpa (69), W/o. Kuppusamy,  
D.No.3/19, Varadhaiyangarpalayam,  
Kondayamalayam Post, Coimbatore.

.... Petitioner / Plaintiff

//Versus//

1. Thilakavathi (79), W/o.Late.Lingasamy,  
13/2, Keeranatham, Via Saravanampatti, Coimbatore.
2. L.Anbukarasu (49), S/o.Late.Lingasamy,  
13/2, Keeranatham, Via Saravanampatti, Coimbatore.
3. L.Gopal (47), Late.Lingasamy,  
D.No. 4C2, Kurumbapalayam, Coimbatore – 641 107.
4. Thulasiammal (64), W/o. Late. Rajamani,  
No.47, Nagaranai, Sundakkampalayam, Sathy Via, Erode District.
5. Saraswathi (W/o) Late. Palanisamy (died).
6. Tahsildhar, (N) Coimbatore.

.... Respondents/Defendants

7. P.Poongothai (64) D/o. Palanisamy,

D.No.1/89, Kallipalayam Road, Kurumbapalayam, Coimbatore – 641 107.

8. P.Kalyanasundaram (62), S/o. Palanisamy,

D.No.1/89, Kallipalayam Road, Kurumbapalayam, Coimbatore – 641 107.

9. P.Subbulakshmi (60), D/o. Palanisamy,

D.No.1/89, Kallipalayam Road, Kurumbapalayam, Coimbatore – 641 107.

.... Respondents / Proposed parties

This petition has been filed by the petitioner/plaintiff under Order 1 rule 10 of CPC to implead the third parties as a defendant in the main suit.

**Date of petition : 29.11.2022.**

This petition is coming for final hearing before this court in the presence of Learned Advocate Mr.S.Ramanathan for the Petitioner/Plaintiff, learned Advocate Mr.K.Rajasekar for the 2<sup>nd</sup> & 3<sup>rd</sup> Respondents/Defendants and learned Advocate Mr.Rajithkumar for the 4<sup>th</sup> Respondent/Defendants and R1, R7 to R9 were set exparte, and after hearing both sides, upon perusal of material records and having stood over till this date for consideration, this court doth order and final order as follows:

**In the result,**

i) The petition is allowed.

ii) 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 04<sup>th</sup> day of August, 2025.

Sd/- V.Monika  
District Munsif cum Judicial Magistrate,  
Annur.

**Final Order**

I.A.6/2024 in

O.S. 166/2024.

Dated : 04.08.2025.

DM cum JM, Annur.