

**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 24th day of November, 2025.

I.A.No.1/2025
in
O.S.No.220/2024
(CNR.No.TNCB21-002307-2024)

P.Shanmuga Sundaram

.... Petitioner / Plaintiff

Balamani

.... Proposed party

//Versus//

1. N.Rathinasamy (died)

2. R.Sivakumar

3. Dhandapani

4. Saravanakumar

.... Respondents/Defendants

This petition is coming for final hearing before this court in the presence of Learned Advocate Mrs.C.S.Yogalakshmi for the Petitioner / Plaintiff, learned Advocate Mr.K.V.Ramalingam for the 2 to 4 Respondents/Defendants 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 / Plaintiff under Order 1 rule 10 of CPC to implead Balamani W/o. Shanmuga Sundaram as the 2nd plaintiff in the main suit and thus render justice.

2. Brief averments of the Petition:

This petitioner is the plaintiff and he filed this suit for permanent injunction against the respondents / defendants vested suit property. During the pendency of the suit, the petitioner executed a sale deed in favour of Kavitha on 18.08.2011 vide document number 10057/2011. Subsequently, she sold the suit property to the proposed party in this petition, the wife of the petitioner / plaintiff vide document number 17735/2011 dated 22.12.2011. The said transactions were inadvertently failed to inform to the petitioner's counsel and when preparing for trial, these facts were disclosed. Since the wife of the petitioner being the present owner of the suit property, she is a necessary party to the proceedings for proper adjudication. The above said transaction is governed by Section 52 of the Transfer of the Property Act, 1882 and so it is not void but the transferee is bound by the outcome of the litigation. The cause of action will continue to survive with the second petitioner / proposed party as rightful owner. For the effectual adjudication of all the issues involved, it is necessary to implead the proposed party as the second plaintiff in the suit. Hence, it is prayed by the petitioner / plaintiff to allow this petition since there is no malafide intention or delay.

3. Counter averments of Respondents 2 to 4:

By denying all the allegations specified in the petition generally, the counter case set out in this petition by the respondent is :

During the pendency of the suit, a settlement deed was executed in favour of the petitioner's wife by way of settlement. The petitioner cleverly playing before this court that he was innocent and lack of knowledge. The cause of action of the suit ends with transfer of the property to third party. At present, the petitioner / plaintiff has no locus standi to proceed with the case. The petitioner is not entitled to file this application to implead the subsequent purchaser as a party to prosecute the case on behalf of him. He lost his right in the suit property on the moment of the above said transfer and he is not entitled to implead third party as a plaintiff to the suit. If the proposed party will be impleaded, the cause of action would be different and she cannot proceed on the same cause of action, which will not survive. This petition is an abuse process of law and devoid of merits.

4. 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 proposed party is liable to be impleaded as a plaintiff in the suit?

Discussions and decision:-

6. Both sides counsels were heard and the available case records perused. The petitioner counsel submitted his arguments that the transfer of ownership was made

by the petitioner inadvertently, there is no malafide intention in reporting the alleged transaction and prays to allow this petition since the proposed plaintiff is no one but the wife of the petitioner. Per contra, the respondents filed their written submissions without oral arguments. The crux of the written submissions made by the respondents 2 to 4 are that :

‘The suit was filed in the year 2007, the suit property was transferred to one Kavitha on 18.08.2011 and she subsequently sold the suit property to the present proposed party Balamani, who is the wife of petitioner / plaintiff on 22.12.2011. This petition has been filed after 15 years of alleged transaction and that too after filing the additional written statement. The previous cause of action does not survived by the proposed party, no loss or irreparable injury by the proposed party were pleaded. Since the proposed party has no locus standi to prosecute the case for the reason that she was the purchaser from third person as transferee pendente lite, the cause of action will be changed and at the time of amendment pleadings will be newly included. Hence the respondents prays to dismiss the petition with exemplary cost.’

8. This petition was filed to implead the proposed party as the second plaintiff in the suit. The proposed party is wife of the petitioner / plaintiff and she purchased the suit property from one Kavitha, who purchased it from the petitioner / plaintiff during the pendency of this case. The primary objection raised by the respondents against

this petition are that the cause of action alleged in the suit would not survive on the proposed party and new pleadings will be included at the time of amendment.

9. The main suit for the relief of bare injunction was filed in the year 2007 as contented by the respondents and admittedly this petition was filed 15 years later to the period of alleged transaction. The alleged cause of action in the present suit claimed in the year 2007 is directly linked to the proposed party as wife of the petitioner, who is also the pendente lite purchaser. The transferee will always steps into the shoes of the original plaintiff but cannot plea on new cause of action. The cause of action already pleaded in the suit will be surviving on the present owner / proposed plaintiff as a pendente lite transferee. Even though any lis pendens purchaser is not a necessary party but she is a proper party to the present suit. Whatever be the outcome of the present suit, it will automatically bind over the proposed party as per Section 52 of the Transfer of Property Act. If the opportunity for the proposed party to be impleaded as the plaintiff is denied, it will pave way for multiplicities of proceedings. Hence, in order to protect the rights of the successor in interest, the proposed party over the suit property, this court is intended to allow this petition. The contention regarding pleading of new amendments will be decided on the appropriate petition filed subsequent to this petition, as a result of it's outcome.

In the result,

this petition is allowed. The parties shall bear their own costs.

Dictated to steno-typist and typed by her in my presence and corrected by me and pronounced by me in the open court on this 24th day of November, 2025.

District Munsif cum Judicial Magistrate,
Annur.

Both side Exhibits Marked : - NIL -

District Munsif cum Judicial Magistrate,
Annur.

Draft/Final Order

I.A. No. 1/2025 in

O.S. No. 220/2024

Dated : 24.11.2025

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 24th day of November, 2025.

I.A.No.1/2025
in
O.S.No.220/2024
(CNR.No.TNCB21-002307-2024)

P.Shanmuga Sundaram (52), S/o.Palaniswamy,
D.No.3/101, Varathiyankarpalayam, Kondayampalayam Post,
Vyampalayam Via, Coimbatore. Petitioner / Plaintiff

Balamani (50), W/o. Shanmuga Sundaram,
D.No.3/101, Varathiyankarpalaym, Kondayampalayam Post,
Vyampalayam Via, Coimbatore. Proposed party

//Versus//

1. N.Rathinasamy (died)
2. R.Sivakumar (46), S/o. Late. Rathinaswamy,
D.No.38/105, Varathiyankarpalayam,
Kondayampalayam Post, Vyampalayam Via, Coimbatore.
3. Dhandapani (39), S/o. Late. Rathinaswamy,
D.No.38/105, Varathiyankarpalayam,
Kondayampalayam Post, Vyampalayam Via, Coimbatore.
4. Saravanakumar (30), S/o. Late. Rathinaswamy,
D.No.38/105, Varathiyankarpalayam, Kondayampalayam Post,
Vyampalayam Via, Coimbatore. Respondents/Defendants

This petition has been filed by the Petitioner / Plaintiff under Order 1 rule 10 of CPC to implead Balamani W/o. Shanmuga Sundaram as the 2nd plaintiff in the main suit and thus render justice.

Date of petition : 04.06.2025.

This petition is coming for final hearing before this court in the presence of Learned Advocate Mrs.C.S.Yogalakshmi for the Petitioner / Plaintiff, learned Advocate Mr.K.V.Ramalingam for the 2 to 4 Respondents/Defendants 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 allowed
- 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 24th day of November, 2025.

District Munsif cum Judicial Magistrate,
Annur.

***Final Order in :
I.A. No. 1/2025 in
O.S. No. 220/2024
Dated : 24.11.2025
DM cum JM, Annur.***