

**IN THE COURT OF JUDGE, COMMERCIAL COURT
(DISTRICT JUDGE CADRE), COIMBATORE**

Present: Thiru. K.Hariharan, M.L.,
Judge,
Commercial Court (District Judge Cadre),
Coimbatore.

Tuesday, the 28th Day of October, 2025

I.A. No.6 of 2025

in

C.O.S. No.31 of 2025

[CNR No.TNCB22-000065-2025]

M/s Arav Trading Corporation
Rep. by its Partner Mr.S.David Raja Christoper. ... Petitioner / Plaintiff

// Vs //

1. Krishnan,
Director of M/s Sree Mangalambigai Cotton Mills Pvt Ltd.,
2. Viswanathan Krishnan
Director of M/s Sree Mangalambigai Cotton Mills Pvt Ltd.,
3. Krishnan Kalarani
Director of M/s Sree Mangalambigai Cotton Mills Pvt Ltd.,

... Respondents / Defendants

4. M/s. Sree Mangalambigai Cotton Mills Pvt Ltd.,
... Respondent / Proposed Defendant

The petition came up for final hearing before me on 14.10.2025 in the presence of Thiru.S.Karuppurswamy, Advocates for the petitioner / plaintiff and Thiru.D.M.Senthil Kumar, Advocate for the respondents / defendants and upon

perusing the records, hearing enquiry on both sides and having stood over for consideration till this date, this court doth passed the following:-

ORDER

The petition has been filed by the petitioner / plaintiff seeking to implead the proposed party as the 4th defendant in the main suit under Order I Rule 10(2) r/w Section 151 of C.P.C.

2. The petition averments which are found essential for the disposal of the petition is that:-

The petitioner is the plaintiff. The plaintiff and the defendants is mentioned to have the multiple business transactions and out of which a sum of Rs.45,08,015/- is due from the defendants to the plaintiff. It is submitted that the defendants have already closed their business and also state that the defendants are planning to sell their property and the defendants were running a Mill by name M/s. Mangalambigai Cotton Mills Pvt Ltd. Hence to safe guard the legal right / recovery the petitioner / plaintiff has approached the Registrar to mark / lien the property belongs to the defendants and found that the property have been owned in the name of company and not in the name of the directors of the company and submit that the name of the proposed party have not been included in the present suit. Hence the petitioner has come up with this petition seeking to implead the proposed party as the 4th defendant in the main suit.

3. By denying the petition averments the respondents/defendants has filed the counter. The sum and substance of the counter statement averments which are found essential for the Disposal of the petition is that:-

It is submitted by the respondents / defendants that the petitioner has given no reason in the affidavit to implead the proposed party as defendant in the main suit. It is submitted by the respondents that the petitioner / plaintiff has filed the suit without knowing against whom the suit relief is claimed and the purpose of the lying the claim against the respondents herein and submit that as such the suit is not maintainable and also state that the suit ought not to be taken on file. Even after the respondents pointed out the flaw, the petitioner without any plausible reasons without a cause to substantiate his plea to implead the proposed party is mentioned to have filed the present petition and also state that when there is no cause of action the necessity to implead the proposed party would not arise and state that the petition has been filed at the belated stage with intention to fill-up the lacuna in the suit. Further the petitioner is also mentioned to have not stated that how the proposed party have become necessary and proper party to the present proceedings and state that there is no necessity to be implead the proposed party as 4th defendant in the present suit and state that petition is liable to be dismissed and sought for to dismiss the petition.

4. Point for consideration:-

Whether the petition could be allowed?

Point:-

5. Admittedly in the plaint itself the plaintiff has mentioned that the plaintiff company had the transactions with the proposed party by name M/s.Mangalambigai Cotton Mills Pvt Ltd., In this regard in support of their stand in the present suit the plaintiff has filed the ledger accounts statement in the name of the proposed party. As per records the transactions had been taken place with the respondents / defendants. The plaintiff in the long cause title of the suit has mentioned the defendants 1 to 3 are the Directors of M/s. Sree Mangalambigai Cotton Mills Pvt Ltd., but without impleading the defendants company the plaintiff have presented the present plaint. Under the circumstances the present petition have been filed by the petitioner / plaintiff to implead the company of the defendant ie. Mangalambigai Cotton Mills Pvt Ltd in the present suit.

6. The learned counsel for the respondents / defendants would submit that petition to implead the proposed party could not to be filed by the plaintiff and state that there is no cause of action against the proposed party and state that the petition has been filed by the petitioner belatedly and also submitted that the petitioner has not stated the reason for impleading the proposed party.

7. Order I Rule 3 of C.P.C. provides for impleading the party as the defendant if separate suit were brought against such persons, any common question of law or fact would arise. Further Order I Rule 10(2) of C.P.C.

empowers the Court at any stage of the proceedings either with application or without application of either party for adding a party in a proceeding for complete adjudication of the dispute and settle all the disputes involved in a suit. When considering the above provisions and the plaint, it is found that the suit has been instituted by the plaintiff against the Directors of M/s. Sree Mangalambigai Cotton Mills Pvt Ltd., without impleading M/s. Sree Mangalambigai Cotton Mills Pvt Ltd., as a party in the present suit. The transactions by the plaintiff had been taken place with M/s.Sree Mangalambigai Cotton Mills Pvt Ltd. Since the Directors of M/s. Sree Mangalambigai Cotton Mills Pvt Ltd., have been impleaded as party to the proceedings, for complete adjudication adding M/s. Sree Mangalambigai Cotton Mills Pvt Ltd., as a party to the present proceedings is considered to be necessary for just adjudication of the dispute involved in this suit between the parties. Hence, this Court would consider to allow the petition and the petition is allowed.

8. In the result the petition is allowed. No Costs.

Dictated to the Steno-Typist, computerized by him directly, Corrected and Pronounced by me, on the 28th Day of October 2025.

Judge,
Commercial Court,
(District Judge Cadre)
Coimbatore