

**IN THE COURT OF SUBORDINATE JUDGE,  
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,  
Subordinate Judge,  
Madurantakam.**

**Thursday, this 13<sup>th</sup> day of November 2025**

**I.A.No. 1/2024**

**in**

**O.S.No. 101/2022**

**(CNR.No.TNCG13 – 000405-2022)**

1. Kuppammal
2. Govindhasamy
3. Chandra
4. Devaki
5. Santhi
6. Kandhan
7. Ramki
8. Ramdoss

...Petitioners/Plaintiffs

..Vs..

1. Nagammal
2. Durai
3. Anjalakshi
4. Savithri
5. Selvi
6. Muniyammal
7. Manikandan
8. Murugesan
9. Perumal
10. Karpagam
11. Balan
12. Arumugham
13. Chokkammal

14. Rajendiran

15. Muniyammal

16. Santhi

17. Panchatcharam

18. L. Suren

19. Kamalathasan

...Respondents 1 to 18/Defendants

... 19<sup>th</sup> Respondent/Proposed

19<sup>th</sup> Defendant

This petition coming up for final hearing on 31.10.2025 in the presence of Mr.S.Jothi, Counsels for petitioner/plaintiff and M/s. V.Godwin, R. Venkatramani and N. Sakthimurugan, Counsel for the 18<sup>th</sup> respondent/defendant and Miss.N.Parkavi, counsel for 19<sup>th</sup> Respondent/Proposed 19<sup>th</sup> Defendant and other respondents are exparte in the suit; 18<sup>th</sup> respondent called absent and set exparte due to non filing of counter; that the 19<sup>th</sup> respondent endorsed no counter; that having heard the arguments of the petitioners and having perused the records, having stood over for the consideration of this court till date, this court delivered the following;

### **ORDER**

This petition is filed by the petitioner under Order I Rule 10(2) of Civil Procedure Code to implead the 19<sup>th</sup> Respondent/Proposed 19<sup>th</sup> defendant as 19<sup>th</sup> defendant in this suit in O.S No. 101/2022.

### **2. Petition in brief:**

Petitioners had filed the suit for partition. Suit properties are the joint family properties of petitioners and respondents 1 to 17. The suit properties were purchased one Annamalai naicker by way of two registered sale deeds. An extent of Ac.1.33 cents in S. No. 298/1 was purchased by Annamalai naicker from one Backiyammal by way of a registered sale deed dated 10.05.1943 and he purchased an extent of Ac. 1.74 cents in S. No. 292 by way of registered sale deed dated 10.05.1943 from one Parasurama naicker. Annamalai naicker became the absolute owner of the suit properties and he was in possession and enjoyment of the same. Annamalai naicker and his wife Lakshmi died long back i.e, 60 years back leaving behind his sons

Varadhappa naicker, Nagappan, Ramasamy, Arumugham (12<sup>th</sup> defendant) and Jothi as his legal heirs. After the death of Annamalai naicker his sons have been jointly possessing and enjoying the same without partition. Varadhappa naicker died intestate 3 years back leaving behind him his wife Nagammal, his sons Palani. Durai, daughter Anjalai and Savithri, as his legal heirs and said Pazhani, S/o. Varadhappa naicker predeceased him leaving behind his wife Selvi, and his daughter Muniyammal and son Manikandan (Defendants 1 to 7) as his legal heirs. Nagappan died intestate on. 16.08.2015 leaving behind him wife Kuppammal (1<sup>st</sup> plaintiff) his sons Govindasamy ( 2<sup>nd</sup> plaintiff), and daughters Saroja. Chandra(3<sup>rd</sup> plaintiff), Devaki (4<sup>th</sup> plaintiff) and Santhi(5<sup>th</sup> plaintiff) as his legal heirs. One of the daughter of Nagappan namely Saroja died on.18.05.2011 and her husband Kuppen also died leaving behind them, their sons Ramaki (7<sup>th</sup> plaintiff) and Ramdoss (8<sup>th</sup> plaintiff) and one Kamalathan as their legal heirs and other plaint averments may be read as part and parcel of this affidavit. At the time of filing the plaint above said Saroja's legal heirs has been mentioned Ramki and Ramdoss who are the sons of plaintiffs 7 and 8. Another son of Saroja namely Kamalathan is not mentioned. Since, the Kamalathan left the family 15 years back petitioners have not informed the same to their counsel to implead him as party to the case. Now only the petitioners came to know about the residence of Kamalathan. Kamalathan is also one of the legal heir of Saroja and he also entitled to 1/5 share in the suit properties. Hence he is necessary party to this suit for better adjudication. But he is not cooperate with the petitioners to proceed the case along with them. Hence the petitioners are filing this petition to implead him as 19<sup>th</sup> defendant in the suit.

3. Though the 18<sup>th</sup> respondent entered appearance through his counsel, he failed to file counter and hence he was called absent and set exparte. Proposed defendant cum the 19<sup>th</sup> respondent endorsed no counter in this application.

4. No oral or documentary evidence adduced by petitioners.

5. Heard both sides and perused the records.

**6. Point:*****“Whether this application can be allowed?”***

This petition has been filed under Order I Rule 10(2) of the Code of Civil Procedure seeking to implead the proposed 19<sup>th</sup> respondent, namely Kamalathan, as the 19<sup>th</sup> defendant in the suit.

It is alleged that the 19<sup>th</sup> respondent who is also one of the legal heir through Saroja is also necessary party to the suit, that he was initially not added as his whereabouts were not known and now only the petitioners find out his residence and filed this application. It is further contended that the presence of Kamalathan is essential for the complete and effective adjudication of the issues involved in the partition suit, and that no prejudice would be caused to the existing parties if he is impleaded as a defendant. On the contrary, non-impleadment would result in hardship to the petitioners and might lead to multiplicity of proceedings.

Though notice was served upon the respondents, it is seen from the records that the respondents 18 and 19, despite entering appearance through counsel, have not filed any counter to the present application, and were therefore called absent and set ex parte.

Upon careful consideration of the pleadings and the materials placed on record, this Court finds that the proposed party, Kamalathan, is one of the legal heirs of deceased Saroja, who was originally entitled to a share in the suit properties as a member of the joint family. The omission to implead him at the time of institution of the suit appears to be inadvertent and not deliberate. Since the rights of Kamalathan are directly connected to the subject matter of the suit and any decree passed in his absence would not bind him, his presence is necessary to ensure a comprehensive and final adjudication of the dispute.

In view of the above, and considering that no prejudice would be caused to the existing defendants by such impleadment, this Court is of the considered opinion that the petition deserves to be allowed. Accordingly, the petition to implead

Kamalathan as the 19<sup>th</sup> defendant in O.S. No. 101 of 2022 is ordered as prayed for. Hence this court decided to allow this application and this point is decided accordingly.

**7. Result:**

In fine this application is allowed. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 13<sup>th</sup> day of November 2025.

Subordinate Judge,  
Madurantakam.

**I. Petitioner side evidence and Exhibits: Nil**

**II. Respondent side Evidence and Exhibits: Nil**

Subordinate Judge,  
Madurantakam.

**Fair / Draft order  
IA No. 1/2024  
in  
OS No. 101/2022  
D.D: 13.11.2025,  
Subcourt,  
Madurantakam**