

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

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

Monday, this 22nd day of September 2025

I.A.No. 1/2024

in

O.S. No. 32/2015

(CNR No. TNCG13000102-2015)

1. Gowrisankar
2. Arunagiri

... Petitioners/ Proposed Defendants 6 & 7

..Vs..

1. G. Hemalatha (Died)
2. L. UmaMaheswari
3. Jayalakshmi
4. Usharani
5. Vasanthi
6. Parthasarathi

...Respondents/Plaintiffs

7. Amaravathi (Died)
8. Ponngodi
9. Muthukumaran
10. Arul
11. Lakshmi

...Respondents/Defendants 1 to 5

This petition coming up for final hearing on 26.08.2025 in the presence of Mrs.Arunamunuswamy, counsel for Petitioners 1 and 2/Proposed Defendants 6 & 7 and Mr.S.Subramanian, counsel for respondents/plaintiffs and after hearing the arguments on petitioner side and upon perusing 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 petitioners Under Order I Rule 10 of Civil Procedure Code to implead them as defendants 6 and 7 in the suit.

2. Averments of Petition in brief:

Respondents 1 to 6/ plaintiffs filed the suit against the respondents 7 to 11 for recovery of possession and future profits. Pending suit the 1st defendant was died on 22.01.2022. She is sister of the petitioners' father. She had no legal heirs and was under the care and custody of petitioners. Amaravathi had executed a Registered Will dated 29.08.2008 in favour of the petitioner bequeathing the suit properties in favour petitioners. After her death the Will came into force. The will find place in the written statement of the said Amaravathi. Suit is third or fourth round of litigation. The suit is a vexatious one. Therefore it has become just and necessary to contest the case as they are the title holders of the suit properties. Hence the petitioners file this petition to implead them as defendants 6 and 7 in the suit.

3. Memo of counter filed by Respondents/Plaintiffs in brief:

The respondent denies the allegations set out in the affidavit. Document writer of the will in Chennai High Court campus. Hence that will prohibit. But it was not prohibited. Property situated at Cheyur Taluk. Will was Registered with SRO, Madurantakam. Hence with out prohibit, the will cannot be not received. Hence without document the petition is not maintainable. Hence this petition is liable to be dismissed with cost.

4. No oral or documentary evidence adduced by both parties.
5. Heard both sides. Perused the records carefully.

5. Point:

“Whether this application can be allowed or not?”

The present petition is filed under Order I Rule 10 CPC seeking impleadment of the petitioners as defendants 6 and 7 in the suit in virtue of the will executed by the 1st defendant. The petitioners claim that they are the testamentary heirs of deceased Amaravathi, who was none other than their paternal aunt and who, according to them, executed a registered Will dated 29.08.2008 bequeathing the suit properties in their favour.

On the other hand, the respondents/plaintiffs have filed a counter opposing the petition. According to them, the Will relied upon by the petitioners is not admissible and cannot be acted upon at this stage. They contend that the alleged Will was said to have been executed through a document writer at the Chennai High Court campus but the property is situated within Cheyyur Taluk and the registration was done at the Sub Registrar Office, Madurantakam. It is the stand of the plaintiffs that the Will cannot be entertained without proper probate or letters of administration and therefore, the impleadment petition based on such disputed and unproved document is not maintainable.

On careful consideration, this Court notes that the scope of Order I Rule 10 of CPC is to determine whether the presence of a party is necessary or proper for effective adjudication of the issues involved in the suit. The test is whether the party has a direct or legal interest in the subject matter of the proceedings, which would be affected if they are not impleaded. In the present case, the petitioners claim rights under a registered Will. The truth and validity of the Will are matters of evidence and trial. At the stage of considering an impleading petition, the Court need not pronounce upon the genuineness of the Will or the ultimate rights of the parties. What is relevant is whether the petitioners have set up a prima facie claim of interest in the suit properties which requires adjudication.

The objections of the respondents regarding the maintainability of the Will and want of probate are matters to be tested in the course of trial and cannot be a ground to non-suit the petitioners at the threshold. If ultimately the Will is found not genuine or not enforceable, the claim of the petitioners would automatically fail. However, their presence would avoid multiplicity of proceedings and ensure that the dispute is settled completely and finally in the present suit itself. In view of the above, this Court is of the opinion that the petitioners are at least proper parties to the suit, and their impleadment would enable effective adjudication of the controversy. Hence this point is decided accordingly.

7. Result:

In the result, this application is allowed. No cost.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 22nd day of September 2025.

Subordinate Judge,
Madurantakam.

I. Petitioner side evidence and Exhibits :

Nil.

II. Respondents side Evidence and Exhibits :

Nil.

Subordinate Judge,
Madurantakam.

DRAFT/FAIR ORDER
I.A No. 1/2024
IN
O.S No. 32/2015
D.D: 22.09.2025
SUB COURT,
MADURANTAKAM