

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

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

**Monday, this 02nd day of March, 2026
I.A.No. 5/2025
in
O.S.No. 16/2012
(CNR.No.TNCG13 – 000182-2012)**

S. Y. Eswaran ...Petitioner/Proposed 9th Defendant
..Vs..

1. E. Sundragandhi ...Respondent/Plaintiff

2. S. Sukumaran (Died)

3. The Junior Engineer,
O & M, TNEB, Cheyyur.

4. The Assistant Engineer,
O & M, TNEB, Cheyyur.

5. The Executive Engineer,
O & M, TNEB,
Madurantakam.

6. The Superintendent Engineer,
TNEB, Chengalpattu.

...Respondents/Defendants 2 to 5

7. S. Chitra

8. S. Poornasathya

9. S. Selvi Govind

...Respondents/Defendants 6to8

This petition coming up for final hearing on 19.02.2026 in the presence of Petitioner/Proposed 9th Defendant in person and Mr.M.Tamilmaran, counsel for the

1st respondent/plaintiff and after hearing the arguments on both side's 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 petitioner under Order I Rule 10 and r/w Section 151 of Civil Procedure Code to implead petitioner as proposed 9th defendant in the suit.

2. Petition in brief:

Suit properties purchased by the father of the petitioner. He also obtained patta for the same. After purchasing the properties, petitioner's father was in uninterrupted possession of the same.

The 1st respondent/plaintiff's father Elumalai after maneuvering documents, obtained patta for the properties comprised in S.No. 118/185B. He after getting wrong and illegal patta, interfered with the petitioner's father's properties. So, the petitioner's father filed a suit O.S.No.317 of 1991 on the file of District Munsif Court, Madurantakam. Unfortunately, the said suit was dismissed and the petitioner's father filed an appeal with an application to condone the delay in filing the same and it was numbered as ASSR.No.883 of 2006.

In the year 1995 the Government announced one Jeevendhara Scheme namely, where those who are poor persons and having land of 2 acres apply for Jeevandhara scheme. Government also gave considerable amounts to dug well and get service connection under the above said scheme. 1st respondent/plaintiff had applied for the same, as if he had property in S.No.118/185D. He had also taken well in satisfactory manner to get benefits under the said scheme. In the same way, the above said 1st respondent/plaintiff obtained proceedings from Block Development Officer, Chittamoor, as he had taken well to get service connection. He also obtained certificate from Village Administrative Officer as he had taken well in S.No.

118/185D with chitta along with that survey map. But, in fact he did not take well in S.No.118/185D. He had obtained service connection No.268 in S.No.118/185B after utilizing all funds given by Government. He got Service connection in S.No.118/185B totally misused the S.No.118/185D in getting service connection. The 1strespondent/plaintiff obtained service connection in S.No.118/185B in pending suit.

After filing appeal suit in ASSR.No.883 of 2006 2ndrespondent/1stdefendant Sukumaran came to understand that the service connection was obtained in S.No.118/185B by above said 1strespondent/plaintiff, then he wrote letter to Electricity Department, Cheyyur, saying that the Service Connection was obtained in S.No.118/185B which is the subject matter of appeal suit instead of S.No.118/185D. Electricity Department, Cheyyur, also wrote a letter to Tahsildar, Cheyyur, seeking clarification in respect of the same.

Thereafter, the 3rd respondent issued show cause notice to 1st respondent/plaintiff as the service connection is not obtained by 1st respondent/plaintiff in S.No.118/185D. The 1st respondent/plaintiff after knowing it all before that issuance of show cause notice the above said 1st respondent/plaintiff and his father Elumalai one of the defendant in main suit and respondent in appeal suit, to tackle the show cause notice, executed a settlement deed to the 1st respondent/plaintiff on 20.01.2012 as he handed over 20 cents of land in S.No.118/185B to the 1st respondent/plaintiff pertaining to area of well in land in S.No. 118/185B. After receiving the show cause notice dated 27.01.2012, the 1st respondent/plaintiff filed the above said suit saying that he is the owner of property of S.No.118/185B against the brother of the petitioner and Electricity Board for declaration and injunction. Court has also ordered to maintain both parties "Status Quo". Thereafter, brother of the petitioner has filed counter to injunction petition, written statement and petition to reject the plaint. Petition to reject the plaint was dismissed on the ground that the fact of the case has to be decided in trial.

Petitioner's brother preferred a revision, which was also dismissed by Hon'ble High Court.

The entire property of 48 cents is in the name of petitioner's father and it was not divided/partitioned between the family members. In this situation the 1strespondent/plaintiff sought declaratory relief only against petitioner's brother, leaving other co-shares holders. Without impleading the other cosharers, the suit is bad for non-joinder of necessary and proper party.

The stand of the 1st respondent/plaintiff is petitioner's brother only gave letter to Electricity Board, and by that letter gave troubles to disconnect service connection. Petitioner's brother gave letter to Electricity Board, that the entire property in S.No.118/18B is vested with the petitioner's father Somasundaram. In these situation, without impleading the petitioner, the relief is fatal. When the subject matter of ownership is pending in appeal suit in ASSR.No.883 of 2006, it is the bounden duty of 1strespondent/plaintiff ought to have impleaded the Lrs of Somasundram. So, the suit is not maintainable as against the 2nd respondent alone.

Petitioner had title, right and interest over the subject matter of schedule mentioned properties. Apart from that, petitioner got interest in common over the subject matter of suit plaint schedule mentioned properties as Legal representative of Somasundram. The 1strespondent/plaintiff cannot say that and take Jurisdiction of this Court to confine and file the above said suit by saying that petitioner's brother alone gave letter to Electricity Board. That letter given by the 2nd respondent to trouble him to be decided after full trial.

The 1st respondent/plaintiff has no legal entity to file the above said suit that he will explain after impleading the petitioner's name in the above said suit. Petitioner may be given opportunities to defend the above said suit as petitioner, the legal owner of the suit properties. Petitioner's brother is not only the owner of property to seek declaration, as all his family members are co-sharers of properties as mentioned in

schedule to the above said suit. Hence the petitioner who is third party to the suit seeks to implead him as party to the suit.

3. Counter filed by respondent/plaintiff in brief:

The respondent denies the allegations set out in the affidavit. That there is no cause of action as against the present petitioner. As per the cause of action in the plaint that the 1st defendant has given a complaint to disconnect the respondent's electricity service connection No.268. Based upon the complaint given by the 1st defendant, the Electricity Board as sent a notice to the present respondent to disconnect the said service connection. Hence the suit is filed by the present 1strespondent/plaintiff as against the Sugumaran and Electricity board not to disconnect the electric service connection. The present petitioner is being the brother of the said Sugumaran had no rights to implead in the present suit.

The 1st respondent/plaintiff alone dominant litus. The petitioner has no individual right or any revenue records in his name. Further the 1strespondent has not made any allegation as against the present petitioner. The present petitioner is not necessary party to decide the issues involved in the suit. Hence this petition is liable to be dismissed with costs under Section 35(a) of C.P.C.

4. No oral or documentary evidence adduced by both parties.
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 read with Section 151 of the Code of Civil Procedure seeking to implead the petitioner as proposed 9th defendant in O.S.No.16 of 2012.

In long running affidavit of the petitioner who is third party, in nut shell, it was alleged that the suit properties jointly belonged to him, his brother namely the 2nd respondent and other legal heirs of their father. As the suit was laid against the 2nd

respondent alone, the petitioner contends that he should be impleaded as party to the suit.

On the other hand, the respondent defend that he is dominus litus and that he has every right to seek relief against whom and a third party cannot dicate him to implead persons to the suit. Hence he prays for dismissal of the application.

On keen perusal of records the 1st respondent filed the suit against the brother of the petitioner and electricity board for declaration of title and for permanent injunctio restraining the electricity board from disconnecting the service connection, as the 2nd respondent denied his title and take steps to disconnect the electricity connection in the suit property. Here the petitioner contends that the suit property owned by his father and as legal heir, he was necessary party to the suit. But the learned counself for the 1st respondent defend that it is not the case of 1st respondent that the petitioner denied the title of him and that he was trying to disconnect the electricity connection given to the suit property. In support of the contention of the petitioner, the petitioner has relied upon a decision reported in ***Moreshar Yadaorao Mahajan vs Vyankatesh Sitaram Bhedi(D) Tr.Lrs***, reported in, ***2022 SCC Online SC 1307***, where it is held in para 20,

“It can thus be seen that what has been held by this Court is that for being a necessary party, the twin test has to be satisfied. The first one is that there must be a right to some relief against such party in respect of the controversies involved in the proceedings. The second one is that no effective decree can be passed in the absence of such a party.”

No doubt that the petitioner can be impleaded as party to the suit only if the 1st respondent should have some relief as against the petitioner and that there could not be effective decree be passed in the absence of petitioner. Here there is no relief was sought against the petitioner and that the suit was arise in respect of disconnection of electric connection based upon the petition given by the 2nd respondent. Here rightly the 1st respondent had impleaded the 2nd respondent as he denied title and also the

electricity board for the electric connection to the suit property. Petitioner has no role to play in the said suit. Further in the said decision of our Hon'ble Apex Court in para 21 it was held that the plaintiff therein admitted the title of defendant therein, his wife and three sons and hence the Hon'ble Apex Court came to the conclusion that as the plaintiff in the said suit admits the title of proposed parties and hence they ought to be impleaded as party to the suit. But here there is no such admission by the 1st respondent about the petitioner. In summation the said decision would not help the petitioner to implead himself as party to the suit.

Next the learned counsel relied upon a decision in ***P.K.Padmanaban vs B.Janakiraman and another***, reported in, **2022 – 5 – CTC – 950**, where the learned counsel invited to para 10. In para 10,

“Hence even a co-owner of the property can independently maintain the suit against the alleged trespassers and such a suit should be considered to be a suit filed for and on behalf of the other co-owners also. The situation would have been different if the plaintiff had filed a suit for declaration of title. In such an event, all the owners will have to be made as parties failing which the suit will be liable to be rejected on the ground of non-joinder of necessary parties”

The above said decision was in respect of suit by a co-owner in respect of injunction alone and for declaration and injunction. The said decision was in respect of suit by a co-owner. Here there is no question of co-owner arise as the 1st respondent in the suit claim independent title over the suit property by denying the title of the defendants. So, the said decision also would not be applicable to the case on hand.

At the outset it is pertinent to note that the cause action in the suit was pleaded against the 2nd respondent and other defendants alone and not against the petitioner herein. Petitioner who is third party to the suit cannot dictate terms to the plaintiff who is 1st respondent herein to implead certain parties. Admittedly the 1st respondent/plaintiff didn't plead any cause of action as against the petitioner herein in

respect of the relief claimed. If it so, it is unnecessary to implead the petitioner as party to the suit. On this context it self this application is liable to be dismissed.

Next it is admitted case of petitioner that already a suit was filed in respect of same property and that it was dismissed, where the 1st respondent/plaintiff was also a party. When it was admitted that there was already a suit between the 1st respondent/plaintiff and the petitioner in respect of the suit property, then it is unnecessary to implead the present petitioner as party to the suit. Purchasing of property by petitioner's father and that the petitioner has also right of share over the same can be decided in the another suit, which was dismissed and the appeal was filed by the petitioner herein. Here as per plaint averments, the 1st respondent/plaintiff claims that the 2nd respondent alone deny his title and trying to disconnect the electric connection. If it so, the 1st respondent/plaintiff has rightly laid the suit against the 2nd respondent and electricity officials. No doubt that at the best the petitioner who filed the appeal along with the 2nd respondent can be examined as witness in the suit. Petitioner cannot direct the plaintiff to implead him in the suit, as the 1st respondent/plaintiff is dominus litus. On this score itself this application is liable to be dismissed.

Next it is pertinent to note, as per affidavit averments, the petitioner was well aware of the suit filed by the 1st respondent/plaintiff as against the 2nd respondent, long back ago. But he simply kept quite for all along these **13 years**. If really the petitioner wants to implead himself in the suit, he could not wait for nearly more than 13 years to file this application. Apart from that it is pertinent to note that the petitioner has filed this applicaiton when the suit was posted for evidence of the 1st respondent/plaintiff. This clearly shows that the petitioner, who is brother of the 2nd respondent filed this vexatious application to delay the trial and harass the 1st respondent. This suit is of the year 2012 and pending for more than **13 years**. Attitude of the petitioner would go into show the real intention of the petitioner to delay the

trial and harass the 1st respondent. On this score also this applicaiton is liable to be dismissed.

In summation of above said discussions the petitioner, who is neither proper party nor a necessary party to decide the lis, as there is already a suit, now appeal was pending in respect of the same property between the petitioner and the 1st respondent/plaintiff and that there is no cause of action or right claim by the 1st respondent as against the petitioner in the suit. Hence this application is not maintainable in law and facts and this point is decided accordingly.

7. Result:

In the result this application is dismissed as devoid of merits. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 02nd day of March, 2026.

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. 5/2025
in
OS No. 16/2012
D.D: 02.03.2026
Subcourt,
Madurantakam**