

IN THE III ADDITIONAL CITY CIVIL COURT, CHENNAI

**Present: Tmt. K.Geetha Rani, M.A, M.L.,
III Additional Judge,**

Friday, the 24th day of October 2025

I.A.No.06 of 2025

in

I.A.No.01 of 2023

in

O.S.No.4941/2011

Devi, W/o. Kamalakannan, residing at No.261, V.O.C. Street, T.V. Nagar,
Thirumangalam, Anna Nagar, Chennai-600 040.

...Petitioner/ Proposed 8th Respondent/

Proposed 6th Defendant

Vs.

1. N. Lakshmi, W/o. S. Nagarajan

2. S. Nagarajan, S/o. E. Subramania

Both residing at, No.92, 5th Street, Anna Sathya Nagar, Anna Nagar East, Chennai-
600 102.

...Respondents 1 & 2/Petitioners/Plaintiffs

3. A. Kumar, S/o. Arumugam, residing at No.184, Periyar Street, Thillaiyadi
Valliammal Nagar, Thirumangalam, Chennai-600 040.

...3rd Respondents/1st Respondent/

1st Defendant

4. Mrs. P. Bhanu Priya(Died)

5. R. Puroshothaman, S/o. Ranganathan

6. P. Dhamodharan, S/o. R. Puroshothaman

7. P. Sangeetha, D/o. R. Puroshothaman

5 to 7 are residing at No.69A, Appar Street, Thiruvallieswar Nagar, Chennai-600 040.

... Respondents 6 to 8/Respondents 3 to
5/ Defendants 3 to 5

This petition came up on 19.09.2025 for final hearing before this Court in the presence of M/s. M. Senthil Kumar and A. Mageshwari Counsels for the Petitioner/Proposed 8th Respondent/Proposed 6th Defendant and of M/s. K. Surendranath, A.C. Kumaragurubaran and M.M. Kumaravelu for the Respondents 1 & 2 Petitioners/Plaintiffs, petition and counter and upon hearing the arguments on both sides and having stood over for consideration till this day, this Court delivered the following:

ORDER

This petition filed Under Order 1 Rule 10(2) of CPC to allow the petitioner for impleadment in I.A.No.1 of 2023 in O.S.No.4941 of 2011 and in the main suit, thereby ensuring that all necessary parties are before this court for a comprehensive and just adjudication of the suit property.

2. The averments in the affidavit in support of the petition in short as follows:

She state that she is the petitioner herein and the proposed 6th Defendant in the main suit, and the 6th Respondent in the present interlocutory application. She is well acquainted with the facts and circumstances of the case deposed hereunder.

She state that I am the present and lawful owner in absolute possession of the demised premised situated at Door No.206, N.V.N. Nagar, Thirumangalam, Chennai the title to which I duly acquired through a validly executed and registered sale Deed dated 12.04.2013 vide Doc.No.2115 of 2023.

He further state that the antecedent title to the property was vested in Mrs. Bhanu Priya, who had purchased the same through a through a duly registered sale Deed dated 09.03.2011 vide Doc.No.905 of 2011.

Mrs. Bhanu Priya's acquisition was effected from Mrs. Kalavathy, who executed the conveyance on behalf of Mr. A. Kumar, the 1st Defendant herein, pursuant to a General Power of Attorney duly granted to her by Mr. Kumar, the 1st Defendant herein.

She state that Mr.Kumar himself has acknowledged the execution of the General Power of Attorney in favour of Kalavathy and was fully cognizant of Mrs. Bhanu Priya's purchase of the property in 2011. Consequently, I aver that I have been in continuous, peaceful, and unhindered physical possession and de facto occupancy of the property since 2013, predating my formal acquisition, as I entered into an agreement for sale and remitted a partial sale consideration in the year 2013 to Mrs.Bhanu Priya. Notwithstanding this unbroken chain of title and my established possession, I am currently confronting a direct legal challenge from Mr.A.Kumar,

who has instituted a vexatious suit bearing O.S.No.4544 of 2023 before the City Civil Court, Chennai. In the said lis, he seeks a declaration of nullity concerning the very instruments that established Mrs.Bhanu Priya's and, subsequently, my proprietary rights, alleging fraud and absence of his knowledge. Adding another layer of procedural complexity, the same property forms the subject matter of this main suit, O.S. No. 4941 of 2011, which, despite significant laches and procedural delays, has recently been revived by this Hon'ble Court through the condonation of delay and impleadment of the legal representatives of the late Mrs.Bhanu Priya. I further submit that recognizing the direct and imminent prejudice this poses to my vested interests and undisturbed possession, I am constrained to humbly seek impleadment in I.A.No. in O.S.No.4941 of 2011 and further intend in I.A No. to file a review petition against the orders that condoned the substantial delay, asserting that my substantive rights were adversely impacted without my being a necessary party to those crucial judicial determinations. This aligns with the pronouncements of the Hon'ble Supreme Court in H.Anjanappa & Ors. Vs A.Prabhakar & Ors. (2025), which emphasizes that rejection of an impleadment application, if unchallenged, attains finality, highlighting the critical importance of being a party to such proceedings.

She state that in the intricate legal landscape of this partition suit, the very attainment of complete justice for all parties ad idem hinges upon the judicial recognition of my undeniable presence and claim. For years, I have resided upon and asserted exclusive ownership over the specific portion of the property that Mrs. Lakshmi and Mr.Nagarajan now seek to partition, yet they initiated this interlocutory

application (I.A. No. Of 2024) or the original suit without acknowledging or impleading my fundamental interest. Their actions risk leading this Hon'ble Court down a path of incomplete adjudication, potentially culminating in a fragmented decree that fails to effectually and completely settle the myriad questions surrounding the property's rightful claimants. As held by the Hon'ble Supreme Court in *Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay* (1992) and reinforced by the latest judgment in *Sulthan Said Ibrahim Vs. Prakasan & Ors.* (2025), the power under Order 1 Rule 10(2) CPC extends to adding any person whose presence is necessary for complete and effective adjudication, thus preventing multiplicity of proceedings and conflicting decisions. Adding to this convoluted scenario is A. Kumar, the 1st Defendant, who, despite being a party to this very partition suit, is simultaneously prosecuting a separate legal battle (in O.S.No.4544 of 2023) directly challenging my proprietary rights. This patently contradictory stance from Mr. Kumar, coupled with Mrs. Lakshmi and Mr.Nagarajan's culpable omission, signifies that without my direct involvement and representation, this Hon'ble Court is deprived of a crucial perspective, thereby rendering it impossible to "effectually and completely adjudicate upon and settle all the questions involved," as mandated by Order I Rule 10(2) of the Code of Civil Procedure. My impleadment is not merely a procedural formality, but an absolute imperative to prevent a piecemeal and ineffective decree and ensure that every legitimate claim to the property is fully, fairly, and comprehensively addressed.

She state that I find myself in an utterly anomalous and perplexing situation, my very abode inextricably entangled in a web of multifarious legal proceedings. It is bewildering that Mr. A. Kumar, a defendant in this partition suit, is simultaneously waging parallel litigation against me in O.S. No. 4544 of 2023, actively contesting the very instruments that affirm my lawfully acquired ownership. I humbly seek the prerogative of this Hon'ble Court to address this procedural anomaly. As emphasized by the Hon'ble Supreme Court in Cuddalore Powergen Corporation Ltd. Vs. Chemplast Cuddalore Vinyls Limited (2025), the object of Order II Rule 2 CPC is to prevent the multiplicity of suits, a principle equally applicable to concurrent proceedings involving the same res. How can Mr. A. Kumar, or indeed the plaintiffs, Mrs. Lakshmi and Mr. Nagarajan, expect equitable remedies when the truth pertaining to the property's title is being litigated and dissected in two disparate fora? Their fragmented litigational approach risks nothing short of conflicting judgments, thereby transforming what should be a straightforward partition into an endless continuum of protracted litigation. My application for impleadment in O.S. No. 4941 of 2011 is not predicated upon a desire for further conflict, but is necessitated by a desperate need for judicial economy and fairness. It represents the only efficacious mechanism for this Hon'ble Court to truly consider all interconnected disputes, from my proprietary claims to the final partition, and thereby obviate the absurdity of contradictory rulings, finally bringing an end to this draining multiplicity of proceedings. This perspective is consistently upheld by various High Courts,

emphasizing that parallel proceedings on the same property for the same cause of action should not be permitted to continue, as per law.

She submit and pray before this Hon'ble Court, with a humble plea for remedial justice, seeking a review of an order that, though seemingly facially regular and procedurally sound and without the complete factual matrix and tapestry of truth. My heart aches to recount how the decision to condone the extraordinary delay in O.S.No. 4941 of 2011 was allowed to proceed, based, I presume, solely on the unilateral representations of Mrs. Lakshmi and Mr. Nagarajan, and the arguments advanced by Mr. A. Kumar. Yet, crucially, I, the undisputed rightful owner, lawful occupant, and legitimate claimant of this very property, was then an unseen and unheard figure, my pivotal interests entirely unrepresented and unprotected. As the Hon'ble Supreme Court categorically held in *Krishnadatt Awasthy Vs. State of M.P. & Ors.* (2025), the principle of *audi alteram partem* is the cornerstone of justice, and a "defect at the initial stage cannot generally be cured at the Appellate stage." It pains me to consider that, perhaps through cunning design or calculated omission, the combined actions of (Sister and brother) Mrs.Lakshmi and Mr.A.Kumar, and Mr.Nagarajan, subtly orchestrated a scenario where the true landscape of vested interests in this property remained deliberately veiled from this Hon'ble Court's full judicial purview.

She submit that I appear before this Hon'ble Court with a heavy heart, pleading for a redressal of a fundamental injustice that gravely threatens the very substratum of my property rights. I must humbly submit that on 05.08.2024, when this Hon'ble

Court passed the critical orders in I.A. Nos. 2, 3 and 4 of 2024 in O.S. No. 4941 of 2011 orders condoning a long-standing delay, setting aside an abatement, and bringing the legal representatives of Late Bhanupriya onto the record - I was, inexplicably, a complete stranger to the proceedings. The very property being judicially dissected and adjudicated upon by these pronouncements is my home, where I have resided for the past more than 10 years, yet I was denied any opportunity to present my case, to raise my lawful objections, or to lay bare the relevant facts that were surely overlooked by the Court. As reiterated by the Hon'ble Supreme Court in *Canara Bank Vs. V.K. Awasthy* (2005), "Notice is the first limb of this principle. It must be precise and unambiguous... In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated." It deeply pains me to consider that Mrs. Lakshmi, Mr. Nagarajan, and even Mr. A. Kumar, seemingly acting in concert, permitted these crucial judicial determinations to be made without my presence or input. Their cunning actions, whether by design or culpable neglect, deprived me of my fundamental right to be heard (*audi alteram partem*), leading to orders that profoundly impact my established and vested rights over my property. I pray, with all humility, that this esteemed Hon'ble Court will acknowledge this profound procedural irregularity and lack of due process and grant me the chance to bring the complete and unvarnished truth before it, thereby ensuring that justice, truly comprehensive and fair, may finally prevail.

She submit that I stand before this Hon'ble Court, my very rights and interests, painstakingly cultivated over more than a decade (from 2013), now hang in

precarious balance due to my unwitting and wrongful exclusion from the suit in O.S. No. 4941 of 2011. It is with profound disquiet, as I have earlier stated, that I observe Mrs.Lakshmi, Mr.Nagarajan, and Mr.A.Kumar, seemingly by a concerted, cunning design, proceeding with this partition suit, deliberately circumventing my direct involvement. They press forward with this litigation, knowing full well that any adverse outcome, rendered in my absence and without my representation, would inflict severe, irreparable prejudice, and substantial pecuniary loss upon my established claim over this cherished property. Their maneuvers have cast me into an agonizing predicament, forcing me to confront the prospect of a judgment rendered without my pleadings, without the vital opportunity to present my specific defense, or to produce before this Hon'ble Court the very ownership documents that unequivocally solidify my legal standing and title. I humbly pray that Your Lordship recognizes that such a course of action would not only be a grave affront to my individual personal rights but would also fundamentally violate the sacred principles of natural justice and equity, principles repeatedly affirmed by the Hon'ble Supreme Court and various High Courts. My impleadment, therefore, is not merely a humble request, but an absolute procedural and substantive necessity to ensure my legal rights are adequately protected and that any final decree truly reflects the complete and equitable truth concerning this property.

3. The averments in the affidavit in support of the counter in short as follows:

The respondent stated that he is the 2nd Respondent herein and the 2nd Plaintiff in the above suit. The 1 Respondent/1 plaintiff is my wife and he is filing this counter affidavit for myself and on behalf of the 1st Respondent/ 1 Plaintiff also.

He was served with the copy of the affidavit filed by the petitioner herein in support of the above application seeking to implead herself as party to the petition in I.A No.1 of 2023 and as one of the defendant in the above suit, read over and explained to me in Tamil and I deny all the allegations contained therein except those that are specifically admitted by me hereunder and the petitioner herein is put into strict proof of those allegations.

At the outset it is respectfully submitted that the 1^a plaintiff is the sister of the 1 Defendant and that the suit property bearing Plot No.65, bearing Door No.184, measuring 94.5 Sq.mtrs comprised in T.S No.30, block No.24, situate at Thanthai Periyar Street, Thillaiyadi Valliammai Nagar, Koyambedu Village, Egmore-Nungambakkam Taluk originally belonged to Arumugam, the father of the 1 Plaintiff and the 1st Defendant. He executed a Settlement Deed with regard to 50% of undivided Share of land in 94.5 Sq.mtrs in favour of the 1st Plaintiff, in and by a Settlement Deed dated 18.02.2009, registered as Document No.481 of 2009, at SRO Anna Nagar. Thereafter an attempt was made by one V.Radha to encroach upon the suit property forcibly with the help of henchmen and gundas with the aid of the 1 Defendant, who is always in a drunkard condition and we further learnt that she indulged in such act basing on the fraudulent documents which were created wielding over his drunkard state and old age by undue influence and illiteracy and old of

his father. We have lodged a complaint before V-5, Police Station at Thirumangalam, and thereafter we had also filed a Suit in O.S No. 14712 of 2010 before the Hon'ble V Asst. Judge City Civil Court Chennai praying for permanent injunction, restraining the defendants therein and his agents from alienating or Encumbering 50% Undivided share of land in 94.5 Sq.mtrs, which suit was dismissed on erroneous appreciation of the facts and law by judgement and decree dated 20.02.2012, and that the appeal filed by the respondents 1 & 2 herein as against the said judgement in A.S No.502 of 2012 before the Hon'ble V Additional Judge, City Civil Court, Chennai was allowed on 29.10.2018 and thereby the Decree dated 20.02.2012 in O.S No.14712 of 2010 was set aside and the Decree for permanent injunction restraining the defendants 1 & 2 therein i.e. the 1st defendant herein and one Mrs. V.Radha from encumbering the 50% share of the 1st plaintiff was granted.

He state that without bothering the pendency of the aforesaid suit all of a sudden on 06.05.2011, some unknown persons indulged in demolishing the existing building and heaped building materials affecting our rights in the aforesaid property as such we lodged a complaint before the local police and as the same was of no avail, we have filed the present suit O.S No.4941 of 2011 for partition of the suit property against the 1st defendant and the deceased 2nd defendant besides by filing interim applications we have also prayed for ad-interim injunction restraining the 1st defendant and the deceased 2nd defendant herein from putting up any construction or further construction and also prayed for appointment of advocate commissioner to note down the physical features of the suit property including any construction

activity. The Commissioner appointed noted the physical features and the construction activity. The 2nd Respondent herein without bothering the pendency of the injunction application and the present suit hectically proceeded with the construction.

He state that in the circumstances stated in the affidavit filed in support of the petition in I.A No.1 of 2024, the suit was dismissed for default as such we have filed the above petition to restore the suit and that since Banupriya the 2nd Defendant passed away, the petitioners 3 to 5 being her legal heirs, were brought on record in the above petition and when the petition for restoration of the suit is pending, the petitioner herein chosen to file the present petition praying to implead her as a party to the petition in I.A No.1 of 2024 and also in the suit on the premises that she had acquired right over the aforesaid property by virtue of Sale Deed dated 12.04.2023, bearing Document No.2115 of 2023. I submit that on verifying the view E.C provided by the Registration Department, we learnt numerous further Encumbrances were created including the aforesaid conveyance in favour of the Petitioner herein to dislodge the claim of the Plaintiffs if possible.

He state that the construction made in the suit property is during the pendency of the suit in O.S No.14712 of 2010 filed for permanent injunction and the present suit O.S.No.4941 of 2011 which is for partition. Without bothering the pendency of the injunction application the deceased 2nd defendant hectically proceeded with the construction activity as is evident by the report of the Advocate commissioner and that the present petitioner Devi claiming to be owner is under the sham and nominal

Sale Deed as is evident from the prior encumbrances as such her alleged purchase and the persons claiming right before her had prior knowledge about the dispute over the suit property besides questioning the validity of the documents alleged to have executed by Arumugam, the original owner of the suit property and the capacity of the 1st defendant to deal with the property as such the purchase made by the petitioner herein and others from whom the petitioner claims title are not bonafide besides subjected to lis pendence.

Without adverting to each and every repetitive allegations made in the affidavit under reply quoting various un-related judgments, it is respectfully submitted that entering into an agreement by the Petitioner with the deceased 2nd Defendant in the year 2013 and thereafter purchasing the property in the year 2023 is nothing but a concocted story, perhaps made to defeat the legitimate right of the Plaintiffs to secure partition in the lawful manner.

He state that immediately on knowing the death of the 2nd Defendant, steps were taken to substitute her legal heirs and that even though from the date of knowledge there is no delay in bringing the L.R's on record, by way of abundant caution only the petition to condone the delay, to set aside the abatement were filed and this Hon'ble Court in the circumstances of the case deemed it fit to allow the petition and ordered substitution of the respondents 5 to 7 herein in the proceedings and that the suit being a partition suit, the petitioner herein have no grievance over such substitution which will in no way prejudice the petitioner in bringing them as L.R's of the deceased 2nd defendant.

He state that these Respondents/Plaintiffs have nothing to do with the suit in O.S No.4544 of 2023 filed by the 1^a defendant A.Kumar against the Petitioner herein and others. and that the same may not be a reason for filing the present petition in the suit instituted by us seeking partition of the Undivided Share of Land belonging to the Plaintiffs herein. The allegation that by impleading the L.R's the right of the Petitioner adversely impact will have no merit as the suit is one partition of the due share of the Plaintiff. I stoutly deny the allegation that we have cunningly designed and acted combinedly with Mr.A.Kumar. It is Mrs. V.Radha and subsequently the others claiming through her cunningly acted and intended to defeat the rights of the Plaintiffs and the Encumbrances itself will reveal the fraudulent and cunning acts as such the petitioner is not right to level unfounded allegations as against these Respondents/Plaintiffs.

He deny all other allegations that are not specifically meted out by me. The judgements quoted by the petitioner are in no way applicable to the case on hand as the suit is only for partition. The deceased 2nd defendant was mde as a party to the suit since before partition of the suit property she indulged in construction activity forcibly without heading to our just request. The petitioner is in no way affected if a Decree for partition is granted. Hence the petition to be dismissed.

4. Point for consideration:

Whether the petition is to be allowed or not?

5. No oral evidence adduced and no documents produced on either side.

6. Point :

This petition has been filed by the petitioner/8th proposed respondent/6th proposed defendant to allow the petitioner to implead in I.A.No.1 of 2024 in O.S.No.4941 of 2011 as necessary party for a comprehensive and just adjudication of the suit property.

The petitioner has stated that she is the present and lawful owner in the absolute possession of the demised premises situated at Door No.206, N.V.N. Nagar, Thirumangalam, Chennai the title to which she duly acquired through a valid registered sale deed dated 12.04.2013 in Doc.No.2115 of 2023. The petitioner further stated that the property was purchased by Mrs. Bhanu priya through registered sale deed dated 09.03.2011 in Doc.No.905 of 2011. Mrs. Bhanu Priya's acquisition was effected from Mrs. Kalavathy, who executed the conveyance on behalf of Mr. A.Kumar the 1st defendant herein, pursuant to a General power of Attorney duly granted by her to Mr. Kumar, the 1st Defendant herein. Kumar himself has acknowledged the execution of the General Power of Attorney in favour of Kalavathy and was fully cognizant of Mrs.Bhanu Priya's purchase of the property in 2011. Consequently, the petitioner was in continuous, peaceful, and uninterrupted physical possession occupancy of the property since 2013, predating my formal acquisition, as I entered into an agreement for sale and remitted a partial sale consideration in the year 2013 to Mrs. Bhanu Priya. I am currently confronting a direct legal challenge from Mr.A. Kumar, who has instituted a vexatious suit bearing O.S.No.4544 of 2023 before the City Civil Court, Chennai. In the said lis, he seeks a declaration of nullity

concerning the very instruments that established Mrs. Bhanu Priya's and, Subsequently, my proprietary rights, alleging fraud and absence of his knowledge. Adding another layer of procedural complexity, the same property forms part of the subject matter of this main suit, O.S.No.4941 of 2011, which despite significant laches and procedural delays, has recently been revived by this Hon'ble Court through the condonation of delay and impleading the legal representatives of the late Mrs. Bhanu priya. The petitioner further stated that recognizing the direct and imminent prejudice this poses to my vested interests and undisturbed possession and constrained to humbly seek impleadment in I.A.No.1 of 2024 in O.S.No.4941 of 2011 and intend to file a review petition against the orders that condoned the substantial delay, asserting that my substantive rights and adversely impacted without my being a necessary party to those crucial judicial determinations and also referred Anjanappa & Ors. Vs A. Prabhakar and Ors. (2025) and Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay (1992) and Sulthan Said Ibrahim Vs. Prakasan & Ors.(2025) the power under Order 1 Rule 10(2) CPC extends to adding any person whose presence is necessary for complete and effective adjudication. This is being a party to this very partition suit, is simultaneously prosecuting a separate legal battle directly challenging my proprietary rights. This patently contradictory stance from Mr. Kumar, coupled with Mrs. Lakshmi and Mr. Nagarajan's culpable omission, it is impossible to effectually and completely adjudicate upon and settle the questions involved without my presence and I ensure that every legitimate claim to the property is fully, fairly, and comprehensively

addressed. Myself is an utterly anomalous and perplexing situation, very abode inextricably entangled in a web of multifarious legal proceedings. Kumar is the defendant in this partition suit, is simultaneously waging parallel litigation against me in O.S.No.4544 of 2023, actively contesting the very instruments that affirm my lawfully acquired ownership. I humbly seek the prerogative of this Hon'ble Court to address this procedural anomaly. As emphasized by the Hon'ble Supreme Court of India in Cuddalore powergen Corporation Ltd. Vs. Chemplast Cuddalore Vinyls Limited(2025) the object of Order II Rule 2 CPC is to prevent the multiplicity of suits, a principle equally applicable to concurrent proceedings involving the same res. How can Mr. A. Kumar, or indeed the plaintiffs, Mrs. Lakshmi and Mr. Nagarajan, expect equitable remedies when the truth pertaining to the property title is being litigated and dissected in two disparate fora. The petitioner further states that my heart aches to recount how the decision to condone the extraordinary delay in O.S.No.4941 of 2011 was allowed to proceed, based on the I presume, solely on the unilateral representations of Mrs. Lakshmi and Mr. Nagarajan and the arguments advanced by Mr.A. Kumar. Yet, crucially the undisputed rightful owner, lawful occupant, and legitimate claimant of this very property, was then an unseen and unheard figure, my pivotal interests entirely unrepresented and unprotected. Krishnadatt Awasthy Vs. State of M.P. & Ors.(2025), the principle of audi alteram partem is the cornerstone of justice, and "defect at the initial stage cannot generally be cured at the Appellate stage. It pains me to consider that perhaps through cunning design or calculated omission, the combined actions of (Sister and brother) Mrs.

Lakshmi and Mr. A.Kumar, and Mr. Nagarajan, subtly orchestrated a scenario where the true landscape of vested interests in this property remained deliberately veiled from this Hon'ble Court's full judicial purview and also bringing the legal heirs of Bhanupriya by filing an application under I.A.Nos.2,3 and 4 of 2024 in O.S.No.4941 of 2011 orders condoning a long-standing delay, setting aside an abatement and bringing the legal representatives of late Bhanupriya onto the record. I was inexplicably a complete stranger to the proceedings. The very property being judicially dissected and adjudicated upon by these pronouncements is my home, when I have resided for the past more than 10 years, I was denied any opportunity to present my case to raise my lawful objections. Hence it is necessary that I should made as the party to this suit and implead me as the 6th respondent/defendant in the suit and 8th respondent/defendant in the I.A. Hence my application to allow me to implead as a party in I.A.No. 1 of 2023 in O.S.No.4941 of 2011 and in the main suit there by ensuring all necessary parties are before this court for comprehensive and just adjudication of the suit property.

Whereas in the counter, the 2nd respondent/ 2nd plaintiff has filed the counter, and he denied all the allegations contained there in those specifically admitted by the petitioner herein and put into strict proof of this allegations. The 1st plaintiff is the sister of the 1st defendant and that the suit property bearing Plot No.65, bearing Door No.184, measuring to an extent of 94.5 sq.mtrs comprised in T.S.No.30, block No. 24, situate at Thanthai periyar street, Thillaiyadi Valliammai Nagar, Koyambedy Village, Egmore-Nungambakkam Taluk originally belonged to Arumugam, the father

of the 1st plaintiff and the 1st Defendant. He executed settlement deed with regard to 50% of undivided share of land in 94.5 sq.mtrs in favour of the 1st plaintiff and the settlement deed dated 18.02.2009, registered as Document No.481 of 2009. Thereafter an attempt was made by one V. Radha to encroach upon the suit property forcibly with the help of henchmen and goondas the 1st defendant is always in a drunkard condition and we further learnt that she indulged in such act basing on the fraudulent documents which were created without over his drunkard state and by influence and illiteracy and old age of his father. We have lodged a complaint before V-5, Police station, we had also filed a suit in O.S.No.14712 of 2010 before the Hon'ble V Asst. Judge City Civil Court, Chennai praying for permanent injunction, restraining the defendants therein and his agents from alienating or Encumbering 50% Undivided share of land in 94.5 Sq.mtrs which suit was dismissed on erroneous appreciation of the facts and judgment and decree dated 20.02.2012 and this appeal filed by the respondents 1 & 2 herein as against the said judgement was allowed by setting aside the order passed by the trial court that is the 1st defendant herein and Mrs.V. Radha from encumbering the 50% share of the 1st plaintiff was granted. Without bothering the pendency of the aforesaid suit all of a sudden on 06.05.2011, some unknown persons indulged in demolishing the existing building and heaped building materials affecting our rights in the aforesaid property as such we lodged a complaint before the local police and as the same was of no available we have filed the present suit O.S.No.4941 of 2011 for partition of the suit property against the 1st defendant and the deceased 2nd defendant besides by filing interim applications we

have also prayed for adinterim injunction restraining the 1st defendant and the deceased 2nd defendant herein from putting up any construction and further construction and also prayed for appointment of advocate commissioner to note down the physical features of the suit property including any construction activity. The commissioner appointed note down the physical features of the construction activity. The 2nd respondent herein without bothering the pendency of the injunction application and the present suit is hectically proceeded with the construction. I submit that in the circumstances stated in the affidavit filed in support of the petition in I.A.No.1 of 2024, the suit was dismissed for default that we have filed the above petition to restore the suit and that Bhanupriya passed away, and to bring Bhanu priya LR's on record as not taken on time I have took I.A.No. 1 of 2024 and also in the suit on the premises that she had acquired right over the aforesaid property by virtue of sale deed dated 12.04.2023 bearing Document no.2115 of 2023. After verifying the E.C. provided by the Registration Department, we learnt numerous further Encumbrances were created including the aforesaid conveyance in favour of the plaintiff herein to dislodge the claim of the plaintiffs if possible. During the pendency of the suit in O.S.No.14712 of 2010 filed for permanent injunction and the present suit in O.S.No.4941 of 2011 which is for partition. Without bothering the pendency of the injunction application the deceased 2nd defendant hectically proceeded with the construction activity as is evident by the report of the Advocate Commissioner and that the present petitioner Devi claiming to be owner is under the sham and nominal sale ded as is evident from the prior encumbrances as such her

alleged purchase and the persons claiming right before her had prior knowledge about the dispute over the suit property besides questioning validity of the documents alleged to have executed by Arumugam, the original owner of the property and the capacity of the 1st defendant to deal with the property.

Heard both sides from the averment of the petitioner and the counter and though the suit has been filed for relief of partition based on the settlement deed executed by the father of the plaintiff Mr.Arumugam with regard to the suit property when once the settlement deed executed the right over the property has been assign to the person who has got the right whereas filing the suit for partition itself is shows that there is some problem in the suit property. The settlement deed was executed only in favour of lakshmi and the plaintiff and the 1st defendant whereas first defendant has appointed one Mrs. Kalavathy as a power of Attorney and through her she has dispose the property to Bhanupriya and thereafter from Bhanupriya this petitioner the proposed respondent has purchase the property in the year 2013 and she was in possession and enjoyment of the property from the year 2013 itself and when Bhanupriya has been added as a party to the proceedings and this petitioner has not been added as a party to the proceeding, the property was purchased from Kalavathy the power of Attorney of the Kumar by Bhanupriya in the year 2011 and thereafter from Bhanupriya this petitioner/ proposed defendant has purchase the property in the year 2013. Though the petitioner has stated that she has purchase the property but in the year 2011 she has remitted a partial stage consideration to Mrs. Bhanu priya and they both have entered into a sale agreement and she has stated that without her

presence the suit cannot be effectively and completely adjudicated and settle all the questions involved. Whereas the Bhanupriya alone has purchase the property from kalavathi she was executed the sale deed as a power of Attorney in favour of Kumar the same was also accepted by the Kumar. The petitioner fail to mention about the status of her sale agreement though she is in peaceful possession and enjoyment and undisturbed possession of the suit property whether sale deed has been executed by the Bhanupriya and her absence the legal heirs of the Bhanupriya has executed the sale deed as marking and mentioned and the sale registration document was also not mentioned in this case. It is true that the sale agreement between the petitioner and the deceased Bhanupriya is there. But as stated by the petitioner that Mr. Kumar has instituted a suit in O.S.No.4544 of 2013 before the City Civil Court Chennai seeking a declaration of nullity concerning the very instrument that establish Mrs.Bhanupriya and subsequently my proprietary rights and alleging fraud and absence of his knowledge. Despite significant latches and procedure delays as recently been related by this Hon'ble Court through the condition delay and implement legal representative of late Bhanupriya the petitioner has stated the recognizing direct and imminant prejudice possession to my vested interest and undisturbed possession. The respondent/plaintiff further stated that the plaintiff suit in O.S.No.14712 of 2010 to set aside the decree and permanent injunction restraining the defendant 1 and 2 that is 1st defendant and one Mrs. Radha from encumbering the 50% share from the plaintiff was granted and in the aforesaid suit all of sudden 2011 some unknown person indulge in demolishing the existing building that we lodged a complaint before the

police station and the same was not available we have filed the present suit for partition the first defendant and deceased second defendant besides filing interim application and we also prayed the second defendant herein construction and also prayed for appointment of advocate commissioner to note down the physical features of the suit property the second defendant herein without bothering the pendency and the Interim application present suit hectically preceeded with the construction. In the circumstances the affidavit filed in support of the petitioner in I.A.No.1 of 2024 the suit was dismissed for default for not producing the legal heirs of the 4th respondent/ 2nd defendant in the suit. Hence all along the sale agreement and also the continuous possession and enjoyment of property of the petitioner proposed respondent is only in between the Bhanupriya and that is until the Bhanupriya's right and sale deed has been if the Bhanupriya sale deed and her possession and enjoyment has been considered and brought on record the question of the sale agreement between the Bhanupriya and devi will be decided. The next stage of sale agreement was not stated by the petitioner that itself shows that disputed is only between the Bhanupriya and this proposed petitioner because with regard to the sale agreement she has not stated that what happen to the sale agreement and what is the time limit that has been between the Bhanupriya and the proposed respondent because the sale agreement is dated 2013, if that being so the question of right over the property has to be decided only based upon the sale agreement and the sale agreement is not come in full shape of sale deed hence seeking the implementation of the proposed respondent's suit is not at all the necessary thing once the right of the Bhanupriya has been decided

disputed the right and other things which has been derived through Bhanupriya by the proposed respondent will be decided. At this juncture this petitioners implementation is not necessary one. It is only create for delay in the suit. Hence the petition is dismissed. No Costs.

In the result, this petition is dismissed. No costs.

Directly dictated to the stenographer, computerized by her, corrected and pronounced by me in the open Court, this the 24th day of October 2025.

III Additional Judge,
City Civil Court, Chennai.

List of Witness and Exhibits on both side : Nil

III Additional Judge,
City Civil Court, Chennai.

Draft / Fair : Order
I.A.No.06/2025– in
O.S.No.4941 of 2011
Dated: 24-10-2025
III Additional City Civil
Court, Chennai.