

IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
NATHAM

Present: Tmt. J.Aafreen Begum, M.Com., L.L.M.,
District Munsif cum Judicial Magistrate,
Natham.

Dated this Saturday, 7th day of March 2026

I.A. No. 14 of 2025 in Original Suit No. 82 of 2011

1. Smt.Rajammal (Died)
2. Mahalingam
3. Sri.Gandhi (Died)
4. Sri.Ramesh
5. Selvi. Vasantha
6. Sri.Sekar

(Plaintiffs 1 to 4 and 6th Plaintiff represented thr'o their Power Agent, the 5th Plaintiff)

Petitioners/Plaintiff

7. Smt. Punitha wife of Late. Gandhi

Hindu aged about 50 years and residing at 0103, Block 22, Taman Selesa Jaya, 81300---
(legal heir of 3rd plaintiff) Skudai, Johor, West Malaysia.

Vs.

1. Sri.Periyandi Ambalam
2. Sri.Krishnan,
3. Smt. Mathiyarasi @ Jeyalakshmi,
4. The Sub-Registrar, Natham SRO
5. Andichamy
6. Machakalai
7. S.Rajamohamed
8. Sinkaravelan
9. Karuppiah
10. Saranyadevi,

Respondents/Defendants

11. Bagavathi.
12. Panimalar
13. Vinithkumar
14. Rubini
15. Rubashini

(Minors are represented through their natural Guardian and mother Santhi)

Proposed Respondents/ Proposed Defendants

This petition was taken on file on 10.10.2025 and coming before me for final disposal on 07.03.2026, in the presence of Thiru. S.S.Ramasubramanian the learned counsel appearing for the petitioner and Advocate Mr.M.Kannan filed vakalath for proposed respondents 12 to 15 and undertook to file vakalath for proposed R11. Despite sufficient opportunities being granted, no

counter-affidavit has been filed by the Proposed Respondents or the other existing Respondents. Consequently, the opportunity to file a counter has been closed. The learned counsel appearing for the petitioner and having heard the arguments and upon perusing the documents, this court doth hereby pronounce the following:

ORDER

This petition is filed under Order I Rule 10(2) of Code of Civil procedure to permit the petitioners / Plaintiffs to implead the proposed respondent as Defendant No.11 to 15 in suit proceedings mentioned hereunder and thus render justice.

2) Brief averments of Petition:

The petitioner is the 5th petitioner herein and 5th Plaintiff in the suit. The petitioner represented herself and on behalf of other plaintiffs. The petitioner's mother, 1st plaintiff expired during the pendency of the suit. All the legal heirs of her already on record as parties in the suit. The suit is for declaration, recovery of possession and challenging the sale deed executed by the 2nd and 3rd defendant to 1st defendant. The plaint averments may be read as part and parcel of this affidavit and petition. During the pendency of the suit the 8th Defendant executed the Gift Settlement deed in favour of his children namely Bagavathi, Panimalar, Vinithkumar, Rubini and Rubashiri on 01.07.2016. The said alienation came to my knowledge after compromise arrived between 16th Defendant getting encumbrance certificate on 23.08.2025. The said alienation made by 8th defendant during the pendency of the suit was hit by section 52 of Transfer of Property Act. Hence, they are necessary parties to this suit, to bind the decision of this suit proceedings. The respondents/Defendants may not have any valid objection for the same. On the other hand if the amendment is not allowed, the petitioner will be put in irreparable loss and hardship. Hence prayed that this Honourable Court may be pleased to permit Petitioner/Plaintiffs to implead the proposed Respondents to suit as Defendant 11 to 15 and thus render justice.

3) Notice to the proposed respondents 11 to 15 duly served. Notice of hearing given to the other rest of respondents. Despite sufficient opportunities being granted, no counter-affidavit has been filed by the Proposed Respondents or the other existing Respondents. Consequently, the opportunity to file a counter has been closed. Enquiry heard.

4) The Point For Determination is Whether the petition is liable to be allowed? Or not?

5) Result:

Records carefully perused. The learned counsel for the Petitioner argued that the 8th Defendant alienated the suit property during the pendency of the suit and that they only discovered this fact recently in August 2025. They contend that the proposed respondents are necessary parties for a final adjudication. This application has been filed by the Petitioners/Plaintiffs under Order I Rule 10(2) of the Code of Civil Procedure, seeking to implead the children of the 8th Defendant as Proposed Defendants No. 11 to 15, on the strength of a Gift Settlement Deed dated 01.07.2016. Encumbrance certificate also filed along with this petition.

5.2) This court considers that Under Section 52 of the Transfer of Property Act, any alienation made during the pendency of a suit is subject to the final decision of the Court. Therefore, the "Proposed Respondents," having acquired interest via a Gift Deed in 2016 (well after the suit was filed), are *pendente lite* purchasers. As a matter of law, the final verdict passed by this Court will be automatically binding upon them and their successors-in-interest. Further this Court noted that the main suit in the year of 2011, is nearly 15 years old. The matter has already progressed through the stages of pleadings, framing of issues, and recording of evidence.

5.3) As held by the Hon'ble Supreme Court in **Sanjay Verma v. Manik Roy (2006) 13 SCC 608**, the principles of Section 52 of the Transfer of Property Act ensure that any decree passed in this suit will be binding upon the proposed respondents as they are transferees pendente lite. The Apex Court further observed that impleading such parties is a discretionary power and should not be exercised where it results in the unnecessary prolongation of a suit that has already reached an advanced stage. The Court ruled that if adding these parties would result in a "de novo" (fresh/restarted) trial or cause undue delay to a long-pending matter, the court is justified in refusing the impleadment.

5.4) Considering the above citation and **the main suit is currently at the stage of arguments**. At this juncture, allowing this petition would result in 'procedural paralysis' for a litigation that is already over fourteen years old. Given that the interests of the proposed respondents are legally protected and bound by the Doctrine of Lis Pendens under Section

52 of the Transfer of Property Act, their presence is not essential for the final adjudication of the original dispute. Consequently, permitting the impleadment of the proposed parties at this belated stage would cause grave injustice and lead to irreparable delay in concluding this long-pending litigation. Hence this court is not inclined to allow the same.

In the result, the petition is dismissed. No Cost.

Typed by the typist on my dictation and corrected and pronounced by me in open court,
this 07th day of March 2026.

District Munsif-cum-Judicial Magistrate,
Natham.

Both Side oral and documentary evidence : NIL

District Munsif-cum-Judicial Magistrate,
Natham.