

IN THE COURT OF THE SUBORDINATE JUDGE, KODUMUDI.

Present:Thiru.M.Ashfaq Ahamed, B.A.B.L.,

Subordinate Judge, Kodumudi.

MONDAY, THE 16th DAY OF JUNE 2025

I.A.No.12/2024 in O.S.No.76/2024

V. Saravanan
(Rep by his power agent K.T. Ponnusamy) ... Petitioner/Proposed party

/Vs/

Manimegalai ... Respondent/Plaintiff

2. The State of TamilNadu
rep by the District Collector,
Erode – 11.

3. The Revenue Divisional
Officer, Erode.

4. The District Revenue Officer
Erode District, Erode – 11.

5. The Thasildar
Kodumudi Taluk, Kodumudi.

6. T. Senthilvel
(Rep by his power agent Chinnasamy) ... Respondents/Defendants

This petition came up for final hearing before me in the presence of Thiru.K.C. Balamurugan Advocate for the Petitioner/proposed party and Thiru.P.Manickam, Advocate for 1st respondent/plaintiff and 2 to 6 respondents called absent and set exparte and upon hearing both side arguments and upon perusing the pleadings and records and having stood over till this day for consideration and this court delivers the following:

ORDER

The petitioner proposed party has filed the above application under order 1

rule 10(2) CPC to implead him as the 6th defendant in the suit.

2. The contents of the affidavit filed the petitioner read as:

The contents of the affidavit filed by the petitioner the 1st respondent/plaintiff has filed the suit for declaration and injunction against the respondents 2 to 6. The 2nd item of the A schedule and 1st item of the B schedule property situates in R.S.No.1641/5 of Sivagiri Village belongs to the petition ancestrally as per the decree in O.S.1594/1925 and partition deed dated 24.03.1926 to his predecessor Ramanagounder and as per the sale deed dated 05.02.1958 to his father Velusamy. The above said properties had been sub divisioned as survey no. 669/5 in the name of his father and presently sub divisioned as resurvey 1641/5 and belongs to the family of his petitioner. The revenue documents stands in the name of the father of the petitioner Velusamy gounder and one Uthami. The said Uthami do not own any property in R.S.No.1641/5, rather she has purchased an extent of acre 0.47 in survey no 669/4 under sale deed dated 31.01.2001 and therefore her name was also included in the revenue records in survey number 1641/5. Subsequent to the death of Velusamy the petitioner is in possession and enjoyment of the same. The 1st respondent/plaintiff do not own any right in the property. The 1st respondent and 5th defendant in the suit had collusively filed a suit in O.S.305/2010 and obtained a compromise decree without any semblance of right by including the property in survey no 1641/5 and were contesting the suit only to grab the property and also the pathway in survey no 1641/6, 7, 8, 22. The petitioner is a proper and necessary party to the suit. Hence the petition.

3. The contention of the counter filed by respondent read as:-

The 1st respondent has filed counter stating the petition is false and incorrect. The details of the suit in O.S.1594/1925, sale deed dated 05.02.1958, sale of a possession of the property in survey no 669/4 to one Uthami are all denied as false

and incorrect. It is also denied the suit in O.S.305/2010 is collusive suit and a compromise was recorded. Only after due enquiry patta was issued in R.S.No.1641/5. The property in survey number is not a suit property the petition is not sustainable.

4. No oral and documentary evidence adduced on both sides.

5. Point for consideration is whether the petition is liable to be allowed?

6. Point:-

Heard both sides. Records perused. On the side of the petitioner along with this petition 7 documents have been filed. No documents on the side of the respondent. The proposed party has filed the application on the ground the property in R.S.No. 1641/5 belongs to him ancestrally and as per the sale deed to his father and subsequent to death of his father the petitioner is in possession and enjoyment of the same. It is also the further contention of the petitioner the 1st respondent and 5th defendant have obtained a collusive compromise decree and on the strength of the decree has filed the present suit. The 1st respondent objected the application on the ground the property in R.S.No. 1641/5 is not subject matter of the suit. A perusal of the document produced by the petitioner shows the property in survey no 1641/5 has been dealt under the decree in O.S.2594/1925 and sale deed in the name of the petitioners father the resettlement register also shows the property in survey no 669/5 and 4 which is the old survey number stands in the name of the father of the petitioner. A register extract also shows the property in survey no 669/4 stands in the name of petitioners father and Uthami. The perusal of plaint would show the properties in resurvey number 1641/6 and 1641/4, 1641/5, 1641/7, 1641/22 are all subject matter of the suit. The petitioner is concerned only with regard to the property R.S.No. 1641/5. The respondent has also got no serious objection as the right of the petitioner if any to the property could very well be decided in the suit and the rights

of the parties can be adjudicated effectively as the suit is one for declaration and injunction. The petitioner by the documents produced has shown that he has substantial right and interest in the property in survey in R.S.No.1641/5. The suit being one for declaration, this court of view the rights of the petitioner if any over the property can also be decided in the same suit without relegating for multiple/cross suits and avoid delay of the proceedings. As such the petition is allowed in the interest of justice.

In the result, the petition stands allowed. No cost.

Order directly dictated to the Steno-Typist, typed by her in computer and taken print out and after rectification of mistake, Pronounced by me in open court, this the 16th day of June 2025.

Subordinate Judge,
Kodumudi.