

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt. K. Chithra, B.A., B.L., (Hons),

Principal District Munsif, Nagercoil

Monday, on the 14th day of July, 2025

I.A.No.13 of 2023

in

O.S. No. 137 of 2019

S. Subramonian

... Petitioner/ Addl. 3rd Plaintiff

-vs-

1. Arunkumar

2. Narayanan

(For themselves and in the representative
Capacity of Varikkars of Arulmigu Devi
Sri Mutharamman Temple Pulavarvilai,
Nagercoil Village)

3. Arulmigu Devi Sri Mutharamman Temple,
Pulavarivillai, Nagercoil, Kanyakumari
District, rep.by its Managing Committee

Through

1) President : Selvarajan

2) Secretary : Perumal (died)

3) Treasurer : Gopalakrishnan

Proposed Addl. 4) M.R.Nagarajan
impleaded vide in I.A.No.11/2022
Dated 23.08.2023.)

... Respondents/Plaintiffs
1&2 and Defendants

This petition came before me on 02.07.2025 for a final hearing in the presence of Thiru.M.Parameswaran, Advocate for the Petitioner/ Addl. 3rd Plaintiff and Thiru.K. Anandh, Advocate for the 3rd and 4th Respondent, and 1st and 2nd Respondent called absent being exparte and upon perusing the case

records and having stood over for consideration, till this day, this Court delivers the following:

ORDER

1. This petition was filed under Order I rule 8 and 10 and Order 23 Rule 1A CPC to implead the Petitioner/Proposed party as the Additional 3rd plaintiff in O.S.No.137/2019 plaint.

2. CRUX OF FACTS IN PETITION:

2.1. The petitioner herein and member/varikar of the 1st defendant Arulmigu Devi Sri Mutharamman Temple, Pulavar Villai Nagercoil in Kanyakumari District and fully conversant with the facts of the case.

2.2. The petitioner is a born Hindu and hailing from Hindu descendants family. The petitioner's grand-grandfather Iyyamperumal is one of the important person for formulation of the 1st defendant temple and his all descendants are varikkars of the temples.

2.3. At present there are 250 varikaras (members) who are the beneficiaries under the 1st defendant temple and every bodies are having equal right and responsibility over the temple and its things. The suit had been filed under the procedure of order 1 Rule 8 of CPC.

2.4. As per the earlier conventional procedure, the election for the post of office bearers would be conducted through General Body once in 3 years. Their tenure is for 3 years and they should discharge their duties and dedicated their service for the fullest satisfaction of the members (varikkars) of the 1st defendant temple. The defendants 1 to 3 forcibly took the temple's office bearers position in the year 2001 and been doing katta panchayat through wrong methodology from the year 2001 onwards. The defendants did not follow the earlier conventional procedure and not conduct election for the office bearers position, after taking their charge in the temple premises in the year 2001. They would

convene the general body once in a year and also Annual General Body within the campus of Shree Muthramman temple. The defendants 1 to 3 did not conduct election through the General Body from the year 2001 to till date.

2.5. The defendants have no manner of right to declare them as office bearers and no manner of right to act as office bearers for the temple without the approval of General Body. They had illegally issued anonymous pamphlets and letters to the members of the 1st defendant temple.

2.6. The functioning and administration of the 1st defendant temple is being jeopardized and members are put into great hardship. The system of the 1 defendant temple functions are totally collapsed due to the illegal and adverse act of the defendants 1 to 3. The defendants 1 to 3 are having money and muscle power and taking law on their own hand and threatening the majority of the varikkars through illegal methodology.

2.7. Petitioner had taken coercive steps along with most of the members for convening the General Body to conduct election for selection of the office bearers and the defendants 1 to 3 had not heeded the request. The defendants 1 to 3 have been collecting huge sum of amount as in the account of vari and subscription and collecting donations from the philanthropist and misappropriated the amounts for the past 18 years and did not submit any proper account before the (members) varikkars and also General Body.

2.8. Atlast on 12.11.2019 Petitioner personally met and requested the defendants 1 to 3 along with most of the varikkars, to convene the General Body for conduction election to select office bearers of the temple ended in vain.

2.9. No other go Petitioner sent registered legal notices to the defendants 1 to 3 through my counsel on 17.01.2020. which were received by them. The defendants 1 to 3 have sent a reply notice dated 07.02.2020 through

their counsel with baseless reasons for non- conduction of election.

2.10. After receipt of my legal notice,the defendants 1 to 3 had created vengeance with me and wantonly stopped to receive the monthly subscription, Karthikai Chirappu vari and other functions vari from me. The defendants 1 to 3 had conducted Katta Panchayat system, without giving any notice and receive any explanation from me and wrecked their vengeance. The defendants 1 to 3's above said act is high handed one.

2.11. The Plaintiffs and defendants 1 to 3 had connived and colluded with themselves and did not not take proper steps to conduct election for selection of the office bearers and not take steps to manage and conduct the chithirai Kodai vizha and other subsequent functions of the temple. So the selection of office bearers and conduction of the Kodai vizha and the functions of the temple are material things for remedial measures to most of the members.

2.12. The petitioner member and beneficiary of the temple and petitioner have been abiding interest in the administration of the temple and its properties and are therefore anxious that all functions in the temple should be conducted properly. Therefore as a member and beneficiary of the pulavarvilai Arulmigu Devi Shree Mutharaman Thirukoil. The petitioner entitled to be impleaded as additional 3rd plaintiff and take part in the further proceedings in the suit.

2.13. So Petitioner have filed an I.A No.09/2021 petition for impleading me as the proposed additional 4th defendant in this O.S.No.137/2019 which is pending before this Honourable Court.

2.14. Being it be so,the second defendant/secretary died and this Honourable Court passed on order in I.A.No.11/2022 to implead the present alleged secretary M.R. Nagarajan as the proposed additional 4th defendant. Which was allowed by this Honorable court on 23.08.2023. But the plaintiffs 1

and 2 did not take step to amend it.

2.15. In the said circumstances, it is reliable learnt that the second plaintiff had already given a letter to this Honorable court connected with his non- willingness to proceed the case and further forgo his liabilities. The plaintiffs had abandoned the suit.

2.16. Apart from that now it is reliably learnt that the 1st plaintiff is also not intending to proceed the suit further and forgo the proceedings of the suit. The plaintiffs are not having such a right to do so in the proceedings in the order 1 Rule 8 C.P.C it is highly necessary to protect the rights of the varikars 250 persons.

2.17. In such circumstances Petitioner intending to withdraw the I.A.No.09/2021 petition through a memo and intending to proceed the suit as impleading me as the proposed additional 3rd plaintiff in O.S.No.137/2019.

2.18. Under the said circumstances, it is highly necessary to implead me as the additional 3rd Plaintiff in this O.S.No.137/2019 for proper adjudication of the case. If Petitioner not impleaded as the additional 3rd Plaintiff in this suit, it will caused irreparable loss and damage to the 1st defendant temple and also its varikars including the petitioner.

3. ALLEGATIONS IN COUNTER OF RESPONDENT:

3.1. This petition is not maintainable under in law and on facts. The petitioner/plaintiff is put to prove the averments stated in paragraph 2 of the affidavit. It is submitted that there is no constitution for the first defendant Oor vagai. There was no complaint against the office bearers. As admitted by the petitioner, the office bearers were elected by the members of the community in the year 2001 ever since the said election the very same office bearers were

elected after the completion of 3 years as period once again the members of the community re-elected the very same office bearers for the period of 3 years and such the present office bearers comprising the defendants and the vice president A. Sekar and the joint Secretary M.R. Nagarajan constituted the 5 member committee which are endowed with administration power to conduct affairs of 1st defendant trust. Now as the 2nd defendant Secretary of the trust died the joint Secretary Mr. M.R.Nagarajan took charge as Secretary. It is submitted as already stated supra the present defendants were elected in the year 2001 in the General body and the present Vice President and Joint Secretary assumed the office in the year 2017, as the earlier incumbent K. Chandran and Radhakrishnan remitted their office. The allegations were as vague as it could be the petitioner failed to mention specifically and specific instance. In fact a secular features of functioning of Oor Committee is every Tamil month of the last Tuesday evening 7 P.M. All the varkarars will assemble in the temple premise where in the entire proceedings of Oor Committee including the receipt and expenditure will be kept for the inspection of varkarars and after due deliberations those varikararas who are present will sign in the minute books approving the total receipt and expenditure in reference to the past 30 days. Hence the allegation that misappropriated the amounts for the past 18 years and did not submit any proper account before the members/ varikarars and also General body is denied.

3.2. The petitioner sent a notice to these defendants as stated in paragraph 9 of the affidavit. After getting proper approval from the Oor Committee correct reply was sent to the petitioner by the respondents. It is respectively submitted that on 22.07.2019 the plaintiffs filed the above suit for directing the defendants to render proper accounts in respect of management of Mutharamman Temple for the last 3 years prior to the suit and as B relief prayed for permanent injunction. Now the present petitioner seeking relief to conduct election. It is contrary to the suit relief. If it be so the present petitioner ought to have file fresh suit. As he has no cause of action, the present petition was filed with a malafied intention by the petitioner.

3.3. It is submitted that in the legal notice dated 17.01.2020 sent by the petitioner's Counsel also he stated to convene General body to conduct election and seeking formulating scheme decree. But the present plaint is silent in this regard. Thus the present petitioner introduced new allegation and new prayer. Hence he has to file fresh suit if he want new relief before this Hon'ble Court. As per order 1 Rule 8 even one person may sue or defend on behalf of all in same interest. But in this case the present petitioner is not having same interest.

3.4. It is submitted order 1 Rule 10 of C.P.C speaks about where the suit is instituted in the name of wrong person as plaintiff or instituted in the name of wright plaintiff or not by bonafied mistake can struck out the name of person.

But contrary to that present petition was filed by their petitioners by introducing new allegation and new prayer. In the said circumstances without following due process of law whether the proposed 3rd plaintiff can be impleaded in the about suit.

4. POINT TO DETERMINE:

Whether this petition is to be allowed or not?

5. The learned counsel for petitioner argued that the plaintiffs and defendants were colluded to each other to defeat the benefit of 250 varikkarars. The Original suit was filed in representative capacity. The petitioner has interested in this suit against the defendant to direct to conduct election, to scrutinize accounts, to curtail the illegal activities of defendant. So, he prayed to allow this petition.

6. The learned counsel for Respondents 1, 3, 4 argued that the plaintiffs are dominant litis and they had to decide the party against whom the reliefs have to seek. The petitioner's prayer to conduct election is not sought by this plaintiffs. Those reliefs have to be sought through new suit and not in this suit. The petitioner didnot object while publishing matter of suit in paper publication, at the time of numbering suit. The petitioner had no cause of action to implead him as plaintiff in this suit. Hence this petition has to be dismissed with costs.

7. REASON FOR DETERMINATION:

7.1. On perusal of case records, the petitioner had filed petition in I.A No.9/2021 to implead him as 4th defendant, which was later dismissed on 16.11.2023 as withdrawn. No explanation was provided by the petitioner for such withdrawal.

7.2. The fact of 2nd defendant's death, its consequential impleadment and the abandonment of suit by 2nd plaintiff, would not be a ground to implead the petitioner as additional plaintiff in original suit. Further the petitioner's allegation that the 1st petitioner is not intending to proceed the suit further and forgo proceedings, would not be inferred to the fact of collision of plaintiffs with defendants.

7.3. The respondents/plaintiffs didnot object the status of petitioner as one of varikkarars in 1st defendant Temple. The plaintiffs in their plaint had alleged against the defendants regarding non-rendering of proper and true accounts; collection of unauthorised and unreasonable taxes/donations; indulging in illegal Katta panchayat and antitrust activities. The petitioner in this petition put forward the same allegations and in addition, he raised another allegation regarding non-conducting of election to the 1st defendant Temple, since 2001. Though these allegations are seemed to be similar, the reliefs sought by the petitioner is different from the reliefs sought by the plaintiffs in suit. The petitioner didnot mention any cause of action to decide the period of limitation.

7.4. In Mulla's cpc, the test to determine the issue of joinder of proposed party in a suit is given. The excerpts were given below for easy reference.

"the test is not whether the joinder of the person proposed to be added as a defendant would be according to or against the wishes of the *plaintiff* or whether the joinder would involve an investigation into a question not arising on the cause of action averred by the *plaintiff*. It is whether the relief claimed by the *plaintiff* will directly affect the intervenor in the enjoyment of his rights. It is not enough that the plaintiff's right, And rights which the person desiring to be made a defendant wishes to assert should be connected with the same subject - matter. The intervenor must be directly and legally interested in the answers to the questions involved in the case. A person is legally interested in the answer only if he can say that it may lead to a result that will affect him legally that is by curtailing his legal rights."

7.5. On applying the above test, the petitioner as varikkarar, also subjected to the maladministration of defendants as alleged by the plaintiffs in their plaint. Among the said 250 varikkarars, whose rights were infringed by the act of defendants are found eligible person to implead in the suit. The petitioner would be prejudiced if a decree were passed, and therefore,

he is a proper party. By impleading intervenor as a party, multiplicity of suit is avoided and advantageous telescoping of two litigations into one is achieved.

7.6. Though the plaintiffs are the dominus litis to decide the parties against whom the suit reliefs have to seek, this suit was filed under representative capacity by filing petition under Order I rule 8 CPC. The petitioner as one of 250 varikarars, is eligible person to implead as additional 3rd plaintiff. Hence this court is inclined to allow this petition.

8. In fine this petition is allowed. No order as to costs.

Dictated to the Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 14th day of July, 2025.

Principal District Munsif
Nagercoil.

Petitioners side witnesses and documents : Nil.
Respondents side witnesses and documents : Nil.

Principal District Munsif
Nagercoil.

Fair/ Draft Order
I.A.No.13 of 2023
in O.S.No.137 of 2019
Date: 14.07.2025.