

IN THE COURT OF SUBORDINATE JUDGE, ERANIEL.
Present : Tmt. D. Asha Kousalya Shanthini, B.Sc., B.L.,
Subordinate Judge, Eraniel.

Friday, the 24th day of October 2025

I.A.No.6/2023
in
O.S.No.49/2023

1. G.S.Raja (On behalf of him and all the residents
of Anjalivilai Oor) 1st Petitioner/Plaintiff
2. D. Raja
3. D.David Nayaham
4. A. Regu
5. A. David
6. A. Jalastin
7. M. Sam
8. A. Sahaya Antony
9. G. Augustin
10. S. Jagir Hussain
11. A. Thankappan
12. J. Dhason
13. S. Mani
14. G. Arivazhahan
15. P. Karthiyanani
16. A. Saraswathy
17. T. Ronickam
18. B. Johnrose
19. B. Kamaldheep Kumar
20. A. Mary Vijila
21. M. Subash Chandra Bose
22. A. Masillamoni
23. M. George
24. V. Suseela
25. R. Rajan Petitioners 2 to 25/proposed
Addl. plaintiffs 2 to 25

.Vs.

1. The District Collector,
Kanyakumari District, Nagercoil.
2. The Sub-Collector,
Padmanabhapuram.
3. The Tahsildhar,
Kalkulam Taluk, Thuckalay.
4. The Assistant Commissioner,

The Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Nagercoil.

5. B. Suresh
6. M. Raj Kapoor
7. K. Gowri Sankar
8. N. Arjunan

.... Respondents/defendants

This petition coming up for final hearing before me on 15.10.2025 in the presence of Thiru. J. John Jayakumar, Advocate for Petitioners and Thiru. Government Pleader for 1st to 4th respondents and Thiru. C.S. Lenin, Advocate for 5th to 8th respondents and upon hearing the arguments of both sides and upon perusing the records and having stood over for my consideration till this day, this court delivers the following:

ORDER

1. The petitioners are seeking for impleading them as additional plaintiffs 2 to 25 in the main suit under Order 1 Rule 10(2) of Civil Procedure code.

2. Petition averments are as follows:

The petitioners 3 to 25 are residing in the Nesavalar Street, Colachel who submit the 1st petitioner/plaintiff has sought for the decree of declaration, permanent injunction and mandatory injunction against the respondents/ defendants in the representative capacity. The Nesavalar Street belongs to the villagers residing in the Anjalivilai Oor irrespective of their case, creed, or community. The petitioners 3 to 25 are residing in the Nesvalar Street, the petitioners have got common interest over it. In order to establish our rights over the property of Anjalivilai Oor, the petitioners want to implead themselves as additional plaintiffs 2 to 25 in the original suit.

3. Counter filed by respondents 1 to 4 and the counter filed by the 5th respondent is adopted by the respondents 6 to 8 in the present I.A. The counter averments in brief

4. The brief averments of the counter filed by the 1st to 4th respondents are as follows:

The petition is not maintainable either in law and on facts. The petition lacks bonafide and is liable to be dismissed. This petition filed by the petitioner is a belated one and was filed with the intention to prolong the suit proceedings. The petitioner has not come forward with clean hands.

5. The brief averments of the counter filed by the 5th to 8th respondents are as follows:

The petitioners 2 to 25 to implead them as additional plaintiffs in the above case is neither maintainable in law nor on facts. It is to be considered that the above suit is filed by the plaintiff under the representative capacity for himself and on behalf the villagers of Anchalivilai Oor. The reliefs sought for is not for the plaintiff but the whole villagers of Anchalivilai Oor for declaration, Manadatory injunction and other consequential reliefs. While, filing the suit separate petition has been filed in I.A. NO. 6/2023 for seeking permission to institute the suit under the representative capacity which got allowed by this court vide order dated 12.06.2023. None of the people residing in Anchalivilai Oor neither chose to appear before this court either as additional plaintiffs or defendats to contest or defend the case. In a suit filed under the representative capacity which impliedly means that the relief claimed not only for himself but also on behalf of the villagers as prayed therein by the parties. The 5th petitioner David is not a native of Anchalivilai Oor but recently he stayed in the address. The 10th petitioner S. Jagir Husain was born and brought up at Layam, Thovalai and only after marriage is stayed in the address. Likewise the 11th petitioner is a native of Thengapattinam and the 20th petitioner without her consent arrayed as one of the respondent. All the above mentioned persons never knew about the past history of Anchalivilai Oor. Once the relief sought for by the plaintiff on behalf of the villagers, the present petition to implead as additional plaintiffs 2 to 25 never arise. In the said circumstances the impleading petition lacks merits and liable to be dismissed.

Heard both sides. Records perused.

Now the point is to be whether the present I.A is to be allowed or not?

6. The petitioners 2 to 25 simply state that they are residing in the Nesavalar street and they have got common interest. But as pointed out by the learned counsel

appearing for the respondents 5 to 8, originally the suit was filed, the plaintiff/1st petitioner has filed I.A. No. 2/2023 (I.A. number wrongly mentioned as 6/23 in the counter) under order 1 rule 8 CPC on 27.04.2023 praying for permission for institution of the original suit on behalf of on the persons so interested in the subject matter of the dispute. In the said I.A. notice was ordered to the respondent and paper publication was also ordered. On 19.06.2023, court notice was served on the respondents and paper publication was filed by the petitioner and no objectors were present before the court and as no counter was filed by the respondents also, the I.A. was allowed on the same day. When the said petition was allowed, why the present petitioners 2 to 25 did not raise any objections for not impleading them as parties to the suit ? Admittedly, none of the petitioners have chosen to appear before the court, seeking for arraying them as additional plaintiffs or defendants to contest or defend the case. So, when the order in I.A. No. 2/2023 was passed in favour of the plaintiff, where numerous persons were having the same interest the petitioners now seeking for impleading them as additional plaintiffs under order 1 rule 10(2) is not properly explained by them during the enquiry.

7. During the enquiry, the respondents' counsel submitted that the petitioners 5, 10th, 11th and 20th are not natives of Anchalivilai and they never knew about the past history of the said Anchalivilai. While so, the learned counsel appearing for the petitioners offered no answer to any of the above said questions, who would only submit that the present I.A. is to be allowed. In the petition averments and also during the enquiry, the petitioners have not explained as to why they are seeking for getting themselves impleaded even though the 1st petitioner/plaintiff has filed the suit in the representative capacity.

8. It is also seen that, a specific issues were framed as to whether the plaintiff is entitled to file the suit for himself and on behalf of Anchalivilai or and whether he has come to the court with clean hands. In the present petition, the petitioners have not sought for impleading themselves by answering on these lines even though it may account for the plaintiffs' interest in filling up the lacuna of his case and capacity.

9. As the present I.A. is filed under order 1 Rule 10 (2) CPC which reads as follows:

“Court may strike out or add parties”. –
The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added”.

considering the factual matrix of the present case, for the above said reasons, this court is of the view that the presence of the petitioners 2 to 5 may not be necessary at this stage for the effective and complete adjudication of the questions involved in the suit, who have purposely remained silent during the previous I.A. No. 2/2023. But as already discussed, the plaintiff and the present petitioners have not spoken anything while the I.A. No. 2 of 2023 was allowed by this court as early as on 19.06.2023. Here as rightly pointed out by the learned counsel appearing for the respondents, it appears that the plaintiff and the 24 petitioners are now trying to drag on the proceedings as the matter is now posted for trial.

Considering the facts and circumstances of the present case, for the above said reasons, this Court is not inclined to allow the present I.A as prayed for.

In the result, I.A. is dismissed. No costs.

Pronounced by me in open court on this the 24th day of October, 2025.

Sd/-
Subordinate Judge,
Eraniel.