

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF AT
KANCHIPURAM

PRESENT: Tmt. Fanny Rajan, B.A., B.L.,(Hons)

Principal District Munsif, Kanchipuram

On Wednesday, the 3rd day of December 2025

I.A. No. 12 of 2025

in

O.S.No. 103 of 2023

CNR No. TNKP08-000179-2023

1. Mr.Subash @ Balaji

2. Mr.Mohankumar

.... Petitioners/Plaintiffs

/Versus/

1. Mrs.Ponmozhi

2. Mr.Yuvaraj

3. The Sub Registrar, Joint-1, Kancheepuram

4. The District Registrar,

Kancheepuram District (D3 and D4 already set exparte in main suit)

5. Mr.Elango

.... Respondents/Defendants

This Petition has come up on 13.10.2025 for final hearing before me in the presence of M/s. S. Dilli babu, P. Duraivel counsels for the Petitioners/Plaintiffs and M/s.P.Devapiran counsels for the 1st and 2nd Respondent/ Defendants,

M/s.P.Balu counsel for the 5th Respondent/Defendant. The 3rd and 4th respondent are already set exparte in the main suit, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

ORDER

1. This petition is filed under order 6 Rule 17 of CPC to permit the plaintiffs to amend the pleadings in the above suit and pass suitable other orders in the circumstance of this present case and thus render justice.

Concise Statement of the averments in the Petition filed by the

Petitioner:

2. The petitioner has averred that they filed a suit for declaration and permanent Injunction against the 1st and 2nd Defendants. The suit summons was duly served to the defendants and they appeared through their respective pleaders before this court. The 3rd and 4th Defendants were set Exparte in main suit. The case was posted for trail not in the list. Subsequently the 1st defendant alienated the suit property on 12.12.2023 to her counsel on record Mr.Elango by way of executed registered sale deed. The implead Application in I.A. No. 9 of 2024 was filed and allowed on 18.10.2024, now the case was posted for steps for amendment.

3. During the pendency of this present suit, the act of conveyance by the 1st defendant is highly illegal. Hence, the 5th Respondent/Defendant was added as necessary party to the suit and the sale deed in favour of the 5th Respondent/Defendant is illegal and has to be declared as null and void and not binding the Plaintiffs. Hence this petition for amendment.

Concise Statement of the averments of the Counter filed by 5th

Respondent and adopted by the 1st and 2nd respondents:-

4. The respondents denied the allegations regarding the validity of the sale deed as lis pendens and that the 5th respondent is necessary party to the suit. The suit schedule mentioned property is adjacent. It was originally owned by one T. Murugesu Naicker who bequeathed it in favour of his wife Amaravathiammal as per registered Will dated 13.02.1998. He died on 22.09.2002 and after the demise of him, the said Will has come into force. The said Amaravathiammal having got the property and in possession and enjoyment of it bequeathing a portion to her grandsons, i.e. the Plaintiffs as per registered Will dated 27.09.2006.
5. The said Amaravathiammal was not taken care by the Plaintiffs and was under the care and custody of her grand daughters namely Ponmozhi and Aruna. A part of the property was bequeathed to them as per registered Will

dated 16.04.2009. She has come to the Sub Registrar office, Kancheepuram and signed the above said Will before the Attesting witness including the ledger book maintained in the office of the Sub Registrar, Kancheepuram and all those process have been done in the proper manner.

6. The said Amaravathiammal has sold away the property in survey number 883/1C infavour of one Varathan who is the husband of the 1st respondent as per registered sale deed dated 25.05.2011. He died on 22.06.2012 leaving behind him, his mother Krishnaveni and his wife as his legal heirs who inherited the property. After the death of Krishnaveni, the 1st respondent alone has become the absolute owner and was in physical possession and enjoyment. Thus, the present owner who is the 1st respondent herein has been in physical possession and enjoyment of the suit property by way of exercising all rights of ownership over the same.
7. The suit is filed claiming some imaginary right over the said property under the previous Will dated 27.09.2006 which is not at all the last Will of the said Amaravathi Ammal. There is another will dated 16.04.2009 infavour of the first defendant. Further, the said Amaravathi Ammal has sold away the property infavour of one Varathan as per registered sale deed dated 25.05.2011. She died on 17.01.2018 and the Wills dated 27.09.2006 has not

been acted upon and the petitioners have no right over the property or possession. The 1st respondent is the sole heir and has succeeded to the suit property and in possession as absolute owner which cannot be disturbed.

8. The 1st Respondent has registered the property comprised in survey number 883/1C Part to an extent of 152 square feet in favour of 5th respondent and it is not related to the suit property. Further adhered by the same fact, this court has dismissed the petitions in 1.A.No.3 and 4 of 2023 in this case by its order dated 06.12.2023. The petitioners have partitioned the property as per registered partition deed dated 22.03.2022 and in that partition the petitioners have stated that the property in survey number 883/1C2 has been acquired by them under SLR Copy and it is not related to the 1st respondent's property.
9. He has purchased the property before the filing of the suit as per registered sale deed dated 18.05.2023 and that property is not at all related to the suit property of this case. Further the above said property is a separate entity coming under survey Number.883/1C Part but the suit property is S.No.883/1C2. So, there is no lis pendens. Hence, the petition has to be dismissed with costs.

10. Upon perusal of records, the respondents 3 and 4 were set exparte in the suit and notice has been dispensed with in this petition.
11. **POINT FOR DETERMINATION:** Whether the Petition under Order VI Rule 17 of CPC to a permit the plaintiffs to amend the pleadings has to be allowed or not?

DISCUSSION AND FINDINGS:

12. This Court considers the submissions of the learned counsels for the Petitioner and respondents 1, 2 and 5 herein and perused the materials on record. No ocular or documentary evidence has been let in by the Petitioners and Respondent.
13. On perusal of the records, it is found that the IA No.9 of 2024 filed by the Petitioners seeking to implead the 5th respondent herein was allowed on 18.10.2024. This court finds that the respondents 1, 2, 5 though have filed a detailed counter have not pleaded about any revision against the said impleadment order. There is no appeal or revision against the order dated 18.10.2024 in I.A.No.9 of 2024 and also there is no stay of the operation of the said order. Hence, the order dated 18.10.2024 in I.A.No.9 of 2024 permitting the Petitioners' to implead the 5th respondent is valid and binding on both parties and the merits regarding impleadment cannot be reagitated.

14. Thereafter this petition is filed to amend the plaint particulars by the Petitioners/Plaintiffs regarding the impleaded 5th respondent and relief in respect of the same. The purpose of this petition is only to substantiate the averments regarding the impleadment of the 5th respondent, the alleged pendente lite purchaser as per the order of impleading in IA No.9 of 2024 dated 18.10.2024. As per the said order, the necessary amendments regarding the impleaded 5th respondent is sought to be added in the Plaint.
15. Now the purpose of this petition is to only add the necessary particulars to substantiate the case of the Petitioners/Plaintiffs regarding the impleaded 5th respondent. The question of whether the suit properties are different, the 1st respondent had the right to sell, the conveyance in favour of the 5th respondent is valid or not, the title of the Petitioners in the suit property and the property sold to the 5th respondent, the last will of Mrs.Amaravathiammal are all a matter of trial.
16. Irrespective of the nature of particulars sought to be amended, the contesting respondents 1, 2 always have an option to raise their defense in the additional written statement and the 5th respondent would have the opportunity to file his detailed written statement. Curtailing the Petitioners to add the particulars and going into the merits at this petition may be

prejudicial to the interest of the Petitioners, as this court has already permitted the Petitioners to implead the 5th respondent.

17. It is well established principle of law that no amount of evidence in the absence of the pleadings can be entertained. Therefore, this court opines that the inclusion of the amendment particulars in respect of the added schedule of properties in light of IA No.9 of 2024 is necessary for deciding the issue on merits. No prejudice would be caused to the contesting Respondents as they can raise their contentions through their additional written statement and written statement. In light of the above discussions, in the interest of justice this court is inclined to allow the amendment petition.
18. However, as the amendment particulars do not reveal the amendment regarding the suit valuation and court fee payable for the newly added relief of declaration in amendment particular No.3. With regard to newly added declaration relief regarding Sale deed, this court takes note of the judgments in *Siddha Construction (P) Ltd., rep. by its Power Agent Anjay Sharma, Chennai v. M.Shanmugam and Others (2006) 4 MLJ 924*, *G. Seethadevi v. R. Govindaraj, 2011 – 1 – LW 925* which is squarely applicable to this case. It has been clearly held that when the suit for declaration of a document as null and void is filed by the Plaintiffs who was

not a party to the said document, it would suffice that court fee be paid under *Section 25(d) of the Tamilnadu Court Fee and Suit Valuation Act*.

Further, the court fee has to be evaluated on the contents of the Plaint.

19. In the instant case, admittedly, the Plaintiffs were not a party to the Sale deed dated 12.12.2023 executed by the 1st respondent herein in favour of the 5th respondent herein. Hence, the suit has been rightly valued under *Section 25(d) of the Tamilnadu Court Fees and Suit Valuation Act*. The Petitioners have already valued the suit relief (a) for declaration as notional valuation of Rs.5,000/- for a similar relief and paid court fee of Rs.150/-. Therefore, similarly the same valuation has to adopted for the newly amended relief a(i) and court fee has to be paid accordingly. In the interest of justice and to avoid further prolonging of the suit, this court invokes its discretionary power under Order VI Rule 17 CPC and directs that the Petitioners shall also make necessary amendment regarding valuation and payment of court for the newly added declaration relief as mentioned hereinabove in the Plaint with the already described amendment particulars.
20. Considering the nature of dispute between both the parties, this court considers that the parties shall bear their own costs.

RESULT :-

21. In the result, this petition is partly allowed and the Petitioner is permitted to carryout the amendment in the Plaint of O.S No.103 of 2023 as per the amendment particulars in this petition and also directed to make necessary amendment regarding the suit valuation for the newly added relief a(i) of declaration and court fee paid. No costs.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 3rd day December 2025.

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM

Petitioner and defendant side witness and document : NIL

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM