

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI**

**Present : Selvi.A.Yughathymariya, B.Com, L.L.B.(Hons.,)**

**Additional District Munsif, Kulithalai.**

**Dated Friday, the 08<sup>th</sup> day of August 2025**

**I.A No.10/2025 in O.S No.24/2024**

Sirumbayee

**...Petitioner/Plaintiff**

**- Vs -**

Lakhmayee @ sakunthala

**...Respondent/Defendant**

This petition has come up for final hearing on 19.07.2025 before this Court in the presence of Thiru.A.Jaffar shet, the Learned Counsel appearing for the Petitioner and in the presence of Thiru.P.Saravanan, the Learned Counsel appearing for the Respondent, upon perusal of material records and having stood over for consideration till this day, this court delivers the following:

**ORDER**

This petition is filed under Order 1, Rule 10 r/w section 151 of CPC in order to implead the Proposed Parties in the above suit.

**Brief averments in the affidavit are as follows:**

2) The Petitioner is the Plaintiff in the above suit which was filed against the Defendants/Respondents herein for the relief of Permanent Injunction in respect of the suit property. The suit property and other property originally belonged to the Plaintiff and the Defendants. On 25.03.1975, the Plaintiff and the Defendant along with their family members, have entered into a registered partition deed in which the "A" schedule property specified in that partition deed was allotted to the Petitioner/Plaintiff and one Ramamirtham to an extent of Ac.1.43 Cents.

3) But, mistakenly in that "A" schedule of the above said partition deed, no share was specified in respect of this Petitioner and the said Ramamirtham. But, instead of the same the share of this Petitioner and Ramamirtham which is to an extent of Ac.1.43 Cents has been mistakenly entered in the "F" schedule of the property as specified in the partition deed as if it is the share of the Respondent/Defendant. Though it was stated so, after the said partition deed, the sharers have sit together and consulted and agreed to enjoy the said property by every sharers to an extent of Ac.1.43 Cents each as agreed among them earlier and from then this Petitioner has been in the possession of her share in respect of the said property in S.F.No.248/1 to an extent of 0.70 Cents and in S.F.No.248/3 to an extent of 0.73 Cents, to a total extent of Ac.1.43 Cents.

4) The revenue records and the Patta in respect of the above share has been mutated also to the names of this Petitioner and said Ramamirtham in respect of the said property, the joint Patta was issued though the same has been independently enjoyed by this Petitioner without any sub division of the same. On 01.06.2020, the said Ramamirtham also died. The Petitioner and the said Ramamirtham had married a same person called Rengasamy and he was also died on 23.12.2005.

5) The Petitioner is the absolute owner of the suit property who got the same by way of the said partition and she has been in the absolute possession and enjoyment over the same. By taking undue advantage of the fact that in the above said partition deed, the shares of this Petitioner and Ramamirtham were mistakenly added to the shares of the Respondent herein, this Respondent/Defendant had, pending this suit executed a sale deed in respect of the property in S.F.No.248/1 to an extent of Ac.1.40 Cents in favour of the Proposed Party No.1 on 10.01.2025 and had also executed a sale deed in favour of the Proposed Party No.2 on the same date in respect of the property in S.F.No.248/3 to an extent of Ac.1.48 Cents fraudulently and registered the same. The above sale deeds are not legally enforceable documents. The above sale deeds which were fraudulently created by the Defendant/Respondent herein without

having any absolute right, title and interest over the same and by concealing the equal share of this Petitioner therein, thereby fraudulently sold the same to the Proposed Parties herein without receiving any consideration for the same, are legally unsustainable.

6) In respect of the same, the Proposed Parties who are the subsequent purchasers of the suit property from the Defendant/Respondent herein pending this suit, are necessarily to be impleaded in the above suit as Defendants in the interest of justice. Hence, this petition.

**Brief averments in the counter filed by the Respondent:**

7) The Petitioner is not entitled to the relief sought for in this petition. All the allegations contained in the above petition affidavit are denied by the Respondent. The above said partition deed has been made only after having agreed to the same by the Petitioner and other family members in respect of the suit property, wherein the "F" schedule property therein in respect of S.F.No.248/1 to an extent of Ac.1.40 Cents and S.F.No.248/3 to an extent of Ac.1.48 Cents has been allotted to the share of this Respondent. After the above said partition, this Respondent has become the absolute owner of the suit property.

8) Meanwhile, due to the aging of the Respondent, the said property could not be maintained by her and hence the same has been sold to the 3<sup>rd</sup> parties who are the Proposed Parties herein by way of proper registration. The above sale deeds are not fraudulent. In order to take revenge against the Respondent, the Petitioner has filed the above suit and also has filed this petition to unnecessarily impleaded the 3<sup>rd</sup> parties with false allegations. The Proposed Parties herein are not necessary parties to the above suit. Hence, this petition is liable to be dismissed with costs.

**Brief averments in the counter filed by the Proposed Parties No.1 and 2:**

9) The Petitioner is not entitled to the relief sought for in this petition. All the allegations contained in the above petition affidavit are denied by the Proposed

Parties. The above said partition deed has been made only after having agreed to the same by the Petitioner and other family members in respect of the suit property, wherein the “F” schedule property therein in respect of S.F.No.248/1 to an extent of Ac.1.40 Cents and S.F.No.248/3 to an extent of Ac.1.48 Cents has been allotted to the share of the Respondent. After the above said partition, the Respondent has become the absolute owner of the suit property.

10) Meanwhile, due to the aging of the Respondent, the said property could not be maintained by her and hence the same has been sold to the 3<sup>rd</sup> parties who are the Proposed Parties herein by way of proper registration. The above sale deeds are not fraudulent. In order to take revenge against the Respondent, the Petitioner has filed the above suit and also has filed this petition to unnecessarily impleaded the 3<sup>rd</sup> parties with false allegations. The Proposed Parties herein are not necessary parties to the above suit. Hence, this petition is liable to be dismissed with costs.

**Points for determination:**

11) Whether this petition is entitled to be allowed or not?

**Evidence:**

12) No oral and documentary evidence were adduced on either side.

**Discussion:**

13) Heard both sides. Perused records. Upon perusal of records, it is seen that the Petitioner/Plaintiff has filed the above suit against the Respondent/Defendant for the relief of Permanent Injunction in respect of the suit property in S.F.No.248/1 and S.F.No.248/3, there by restraining the Defendant from interfering with the possession of the Plaintiff over the suit property and restraining the Defendant from further encumberring the suit property. It is the case of the Petitioner/Plaintiff that in respect of the suit property and other property which belonged to the family of the Plaintiff

and the Defendant, a registered partition deed was entered into on 25.03.1975, by which the “A” schedule property there in that partition deed in S.F.No.248/1 and S.F.No.248/3 to an extent of Ac.1.43 Cents has been allotted to the share of the Plaintiff. But, mistakenly the same has not been mentioned therein and mistakenly it was added to the share of the Defendant in the “F” schedule therein. It is the further case of this Plaintiff/Petitioner herein is that she is the absolute owner of the above said property and she has been in the continuous possession and enjoyment of the same. The Petitioner also alleged that pending this suit, the Defendant/Respondent herein had sold the said property to the Proposed Parties herein by way of registered sale deeds on 10.01.2025 by fraudulently entering into the same by concealing the absolute right of the Petitioner. The Petitioner further contented that the above sale deeds are not enforceable and they are void and the subsequent purchasers of the said property who are arrayed as the Proposed Parties herein are necessarily to be impleaded in the above suit as Defendants in the interest of justice.

14) In order to substantiate the case of Petitioner, the Petitioner has also filed the copies of the above sale deeds along with this petition. Upon perusal of the above copies of the sale deeds, it is seen that the Defendant/ Respondent herein has sold the property in S.F.No.248/3 to an extent of Ac.1.48 Cents to the Proposed Party No.2 and has also sold the property in S.F.No.248/1 to an extent of Ac.1.40 Cents to the Proposed Party No.1 on 10.01.2025.

15) Per contra, it is the case of the Respondent and the Proposed Parties herein is that the Respondent is the absolute owner of the above property in S.F.No.248/1 and 248/3, who got right over the same by way of the above said partition deed. Hence, the above sale deeds which were executed by the Respondent to the Proposed Parties in respect of the above property is valid and not fraudulent. It was further contented by the Respondent and the Proposed Parties that the Proposed Parties are not necessary parties to the above suit.

16) Upon careful consideration of the contention of both parties and the Proposed Parties, this Court is of the view that the Proposed Parties herein who are sought to be impleaded in the above suit are none other than the subsequent purchasers of the suit property who purchased the same from the Respondent/Defendant, pending the above suit. It is a settled position of law that the subsequent purchasers of the suit property pending suit would not always become necessary parties to the suit unless their rights over the same would be affected if they were not impleaded in the suit and their presence becomes necessary for proper and complete adjudication of the suit. As the Petitioner/ Plaintiff has also claimed as one of the relieves for the relief of Permanent Injunction against the Defendant/Respondent thereby restraining her from further encumbering the suit property in the above suit, this Court considers that as the Respondent/Defendant had further encumbered the suit property pending this suit, the subsequent purchasers who are the Proposed Parties herein are necessary to be impleaded in the above suit for a proper, filing binding and complete adjudication of the above suit and in order to avoid multiplicity of proceedings and to avoid subsequent encumberrance of the suit property pending this suit and to secure the ends of justice. Therefore, for all the reasons stated above, this Court is inclined to allow this petition.

**Result:**

In the result, in the interest of justice and on merits, this petition is allowed. No costs.

Dictated to my steno-typist, taken down by her in short hand and typed by her in the computer, corrected by me and pronounced by me in the open court on this the 08<sup>th</sup> day of August 2025.

**Sd/-A.Yughathymariya**  
**Additional District Munsif,**  
**Kulithalai.**

Petitioner side witness and documents - Nil.  
Respondent side witness and documents - Nil.

**Sd/-A.Yughathymariya**  
**Additional District Munsif,**  
**Kulithalai.**

