

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI

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

Additional District Munsif, Kulithalai.

Dated Wednesday, the 10th day of September 2025

I.A No.11/2025 in O.S No.160/2018

1) Sathya

...Petitioner/Plaintiff

- Vs -

1) Boopathiraja

2) Kanakaraj

3) Rajalakshmi

4) Parasakthi

5) Kanthasamy

6) Arumugam

7) Mani

8) The District Collector, Karur.

9) Thasildar, Kadavur, Karur District.

10) Surveyor, Land Survey Division, Kadavur

11) The Village Administrative Officer, Mullipadi Village.

12) Sub-Registrar, Tharagampatti

13) Selvaraj

...Respondents/Defendants

P.P.1) T.S.Kannan

P.P.2) Subramaninan

...Respondents/1,2 Proposed Parties

This petition has come up for final hearing on 25.08.2025 before this Court in the presence of Mr. M. Paramasivam, the Learned Counsel appearing for the Petitioner and Respondent No.7 called absent and set exparte and in the presence of Mr. N. Manoharan, the Learned Counsel appearing for the Respondents No. 1 to 4 and in the presence of Mr. R.M. Senthil, the Learned Counsel appearing for the Respondents No.5 and 6 and in the presence of the Government Pleader

Mr. K.S.M. Sahul Hameed, the Learned Counsel appearing for the Respondents No. 8 to 12 and in the presence of Mr. S. Bhaskar, the Learned Counsel appearing for the Respondent No.13 and in the presence of Mr. V.G. Kamalesh, the Learned Counsel appearing for the Proposed Parties No.1 and 2 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 of CPC in order to implead the Proposed Parties No. 1 and 2 in the above suit as Defendants.

2) The Respondent No. 7 was already set exparte in the above suit and hence he was set exparte in this petition as well.

Brief averments in the affidavit:

3) The Petitioner is the Plaintiff in the above suit which was filed for the relief of partition of the suit property and allotment of 1/4th share to the Plaintiff and also for the relief of Permanent Injunction restraining the Defendants No. 8 to 12 thereby restraining them from registering any document or making Patta name transfer in respect of the suit property until it gets partitioned to the Plaintiff. The suit property is the common property which belongs to the Plaintiff and the Defendants No. 1 to 3. Pending the above suit, the Proposed Party No. 2 has attempted to interfere with the suit property in S.F.No. 514/1 to an extent of Acre 0.99 Cents of land by making a rival claim as to the title that he got purchased the said property from the power agent T.S.Kannan, who is the Proposed Party No. 1 herein.

4) When perusing the encumbrance certificate relating to the above said property, the Petitioner has come to know that on 29.10.2009, the said T.S.Kannan has sold the above said property to the Subramanian, the Proposed Party No.2, as a power agent. In respect of the alleged power deed which was alleged to be executed by the mother of the Petitioner in favour of T.S.Kannan, he has not given any sale consideration to

the mother of the Petitioner. The above said power deed has been cancelled even before the execution of the above sale deed by T.S.Kannan in respect of the suit property. Till this date, the said Subramanian has not claimed any title over the suit property. The suit property belongs to the Petitioner and the Defendants No. 1 to 3 by way of settlement and they have been in the joint possession over the same. Due to some misunderstanding between the siblings of the Petitioner, the above suit has been filed for partitioning the suit property.

5) In respect of the suit property in S.F.No.514/, the said T.S.Kannan has fraudulently sold the same to Subramanian, by way of the power deed which was cancelled prior to the above sale and on that basis, the said Subramanian is trying to grab the suit property and hence they are necessary parties who are to be impleaded in the above suit. If this petition is not allowed, it will create multiplicity of proceedings and it would result in undue hardships to the Petitioner. Hence, this petition.

Brief averments in the counter filed by the Respondent No.4 and adopted by the Respondents No.1 to 3 and 13:

6) This petition is unsustainable either in law or on facts. The power deed alleged to have been executed by the 4th Respondent in favour of the Proposed Party No.1 T.S.Kannan, in the year of 2008 and the sale deed executed by T.S.Kannan in favour of the Proposed Party No.2 Subramanian, in the year of 2009 in respect of the property in S.F.No.514/1, are all forged documents. The said power deed and the sale deed are fraudulent and fabricated. The 4th Respondent has never ever executed any such power deed. With the above forged documents, the Proposed Parties are making rival claim as to the title in respect of the suit property and hence they may be impleaded in the above suit. The Proposed Parties are necessary parties to the above suit and these Respondents have no objections to implead them in the above suit.

Brief averments in the counter objections filed on behalf of the Respondents

No.5 and 6:

7) This petition is false, frivolous and unsustainable in law. All the allegations contained in the petition affidavit are denied as meaningless. The Proposed Parties have no right, title and interest over the suit property for which the Proposed Parties are misjoinder of parties. The affidavit has no valid reasons and in the absence of the same, this petition deserves to be dismissed.

Brief averments in the counter objection filed on behalf of the Respondents No.8 to 12:

8) This petition is unsustainable either in law or on facts. All the allegations contained in the petition affidavit are denied as false. The fact that the Proposed Parties, when proceeded to remove the encroachment in the suit property, the Respondents No.8 to 12 were also there with him and helped him, are all denied as false. All the allegations contained in the affidavit are to be strictly proved by the Petitioner. This petition has no prima facie. Without any proper reasons, this petition has been filed and hence the same is liable to be dismissed.

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

9) All the allegations contained in the petition affidavit are false, frivolous and vexatious. The Proposed Parties have not received the plaint filed by the Plaintiff and the written statement filed by the 4th Defendant Parasakthi in the above suit and hence the Proposed Parties reserve their right to file addition counter as and when necessary. The Petitioner is not entitled to any relief as prayed for. This petition is not sustainable either in law or on facts.

10) All the allegations contained in Para No. 2 to 6 of the petition affidavit are completely bereft of merits, having no element of truth and they are all imaginery and

this petition has been filed in order to extract money from the Proposed Parties illegally and unlawfully.

11) In respect of the property in S.F.No.514/1, 689/1 and 689/2 and the well situated therein in Mullipadi Gramam, on 01.12.2008, a registered general power deed has been executed by the 4th Defendant namely Mrs.Parasakthi W/o. Manickam, in favour of the Proposed Party No.1 namely T.S.Kannan. In the above said power deed, the husband of Mrs.Parasakthi has also signed as one of the witnesses knowing fully well the contents of the power deed. In the said power deed, it was categorically stated by Mrs. Parasakthi that the properties specified therein was purchased by her by way of a registered sale deed in Document No.404 in the year of 2003, before the Tharagampatti Sub-Registrar Office, out of her self-earned money. The above power deed was voluntarily executed by Mrs. Parasakthi in favour of T.S.Kannan.

12) As per the above power deed, T.S.Kannan in the capacity of power agent, sold the property in favour of Subramanian on 29.10.2009, in respect of the property in S.F.No.514/1 to an extent of Acre 0.99 Cents legally, lawfully and for a valuable consideration. In the above sale deed also, the husband of Mrs.Parasakthi namely Manickam, has also signed as one of the witnesses knowing fully well, the contents. The above suit is filed in the year of 2018 and it was instituted with ulterior motives and malafide intention for extracting money and to grab the property illegally and unlawfully.

13) The total sale consideration from the above sale was paid to Mrs.Parasakthi by the power agent T.S.Kannan without any balance. The Proposed Party No.2 is a bonafide purchaser for value. The 4th Defendant namely Mrs.Parasakthi has acted in collusion with the Plaintiff, who is her daughter and induced her to file this suit with ulterior motives and filed this petition.

14) The suit as well as this petition is barred by limitation. The power deed was given in the year of 2008 and the property was sold in the year 2009. Hence, as per the Limitation Act, the suit itself is barred by limitation. Furthermore, when the power deed is legally and forcefully in existence, the above sale deed was executed by T.S.Kannan in favour of Subramanian. T.S.Kannan has no knowledge about the cancellation of power deed. The Petitioner has no right to take any action or stand with regard to payment of money to Mrs. Parasakthi. Having received the money, Mrs.Parasakthi and her husband Manickam have acted against the interest of the Proposed Parties. Hence, the Proposed Parties are not necessary parties and the sale executed by the Proposed Party No.1 in favour of the Proposed Party No.2 is legally valid and binding on Mrs.Parasakthi. Hence, this petition ought to be dismissed.

Point for determination:

15) Whether the Petition is entitled to be allowed or not?

Evidence:

16) There is no oral and documentary evidence adduced on either side.

Discussion:

17) Heard both sides. Perused records. Upon perusal of records, it is seen that the above suit is filed by the Petitioner/Plaintiff against the Respondents for the relief of partition and for the Permanent Injunction against the Defendants No.8 to 12. It is the case of the Plaintiff in the above suit that the suit property originally belonged to her mother Parasakthi, who is the 4th Defendant and the Defendants No.1 to 3 and the Plaintiff are the legal heirs of Parasakthi. Further on 07.03.2013, the 4th Defendant had executed a registered settlement deed in favour of the Plaintiff and the Defendants No.1 to 3 in respect of the property which belonged to the 4th Defendant including the suit property. The suit property absolutely belongs to the Plaintiff and the Defendants No.1 to 3, by way of the above settlement deed. In respect of the

property in S.F.No.516/2 the Defendants No.5 to 7 has no right but mistakenly in respect of the above survey number, the revenue records is reflecting the name of the 6th Defendant.

18) It is the further case of the Plaintiff that the Defendants No.5 to 7 with the help of the Defendants No.1 to 4 are attempting to encumber the suit property and by registering the same in the office of the Sub-Registrar. Hence, the above suit was filed by the Plaintiff for the relief of partition the suit property and allotment of 1/4th share to her and for the relief of Permanent Injunction against the Defendants No. 8 to 12, thereby restraining them from changing Patta or registering any document in respect of the suit property. It is the further case of the Plaintiff that pending the above suit, the Defendants No.1 to 4 have let out the suit property for rent to the 13th Defendant and hence he was also impleaded.

19) Per contra, it is the case of the Defendants No.1 to 3 and 4 in the above suit is that the 4th Defendant is not living along with the Defendants No. 1 to 3 and they have admitted the fact as to the existence of the settlement deed executed by the 4th Defendant in favour of the Plaintiff and the Defendants No.1 to 3. However, the joint possession of the Plaintiff and the Defendants No.1 to 4 over the suit property is denied. They have further contended that in respect of the suit property the Plaintiff had orally relinquished her right by agreeing to accept the sridhana and on that basis, the Defendants No.1 to 3 have given sufficient sridhana to the Plaintiff and by suppressing the same, the Plaintiff has filed the above suit. These Defendants have denied the right of the Defendants No. 5 to 7 over the suit property in any way.

20) It is the case of the Defendants No.5 and 6 in the above suit is that the suit is bad for declaration of title and the Plaintiff and the Defendants No.1 to 4 have no right, title and interest over the suit property at any point of time. They further contended that the property in S.F.No.514/2 originally belonged to one Kandasamy Chettiyar S/o.Veeran Chettiyar, under the Patta No.210 and Kandasamy Chettiyar along with his sons Srinivasan and Saravanan had executed a registered sale deed in

favour of Subramanian S/o.Veeran Chettiyar and Arumugam S/o.Veeran Chettiyar on 20.04.2011. They also contended that from the date of the above sale, the 6th Defendant herein has been in effective possession and enjoyment of the same till this date without any interruption. Therefore, these Defendants prayed to dismiss the above suit in respect of Item No.2 of the suit property against them as the Plaintiff and Defendants No.1 to 4 have no right over the same.

21) It is the case of the Defendant No.9 in the above suit is that he has denied all the allegations and averments contained in the plaint filed by the Plaintiff and the prayed for the dismissal of the above suit. It is the case of the 13th Defendant in the above suit is that the suit property belongs to the family of the 4th Defendant. From the year of 2008, for about more than 16 years, the 13th Defendant has been cultivating in the suit property as a cultivating tenant. He further contended that in order to illegally evict the 13th Defendant from the suit property, the Plaintiff and the Defendants No.1 to 4 have colluded together and filed the above suit. He also stated that the 13th Defendant has been in the possession of the suit property as a cultivating tenant and the Plaintiff is not entitled to the relief sought for in the above suit.

22) This being the facts of the above case, on the side of the Plaintiff, the copy of the registered sale deed executed by the power agent T.S.Kannan in favour of Subramanian dated 29.10.2009, in respect of the property in S.F.No.514/1 to an extent of Acre 0.99 Cents in Mullipadi Gramam Panchayat was filed along with this petition. Upon perusal of the above document, it is seen that the said T.S.Kannan has sold the property to the Proposed Party No.2 Subramanian in the capacity of the power agent, who got the said power by way of a registered general power deed executed by Mrs.Parasakthi W/o.Manickam on 01.12.2008 in Document No.185/2008 on the file of Tharagampatti Sub-Registrar Office.

23) Therefore, it is seen that the property in S.F.No.514/1 has been sold to the Proposed Party No.2 by the Proposed Party No.1 in the capacity of power agent of the 4th Defendant. However, the main contention of the Petitioner is that the above

said property which originally belonged to her mother, was settled by her mother in favour of the Petitioner and the Respondents No.1 to 3. Also, it is the case of the Petitioner that the above registered power deed was cancelled even prior to the execution of the above sale deed by T.S.Kannan in favour of Subramanian. Apart from the oral contention, the Petitioner has not produced any documentary evidence in order to show that the above power deed has been cancelled even prior to the above sale deed.

24) Upon careful consideration of the material records available and the pleadings of both side parties, it is seen clear that there is a rival claim of title in respect of the suit property between the Plaintiff and the Defendants No.5 to 7 and the Proposed Party No.2 herein. It is also seen that the above power deed was found to be executed during the year of 2008 and this suit has been filed in the year of 2018. However, it is the contention of the Petitioner that when the Proposed Party No.2, namely Subramanian attempted to encroach the suit property in S.F.No.514/1 by claiming a rival title to the same and consequently when the Petitioner has perused the encumbrance certificate of the same, she has come to know about the reflection of the above power deed and the sale made by T.S.Kannan in favour of Subramanian as power agent. However, the Petitioner has not specifically pleaded as to the date when the said Subramanian had attempted to encroach the suit property and as to when the Petitioner had got the knowledge of the alleged sale deed executed by T.S.Kannan in favour of Subramanian. The Petitioner has simply stated that pending the above suit, the said Subramanian had attempted to encroach the suit property.

25) Admittedly, the suit was filed in the year of 2018. This Court is of the view that the Petitioner has omitted to specify as to the date when the cause of action against the Proposed Parties had accrued. This Court is also of the view that the question of limitation in making such a claim against the Proposed Parties remained a mixed question of fact and law in the case on hand and the same cannot be decided in this petition unless opportunity is given to both parties for adducing evidence regarding the same, at the time of trial of the above suit.

26) This apart, this Court considers the presence of the Proposed Parties herein in the above suit as proper for final and binding adjudication of the above suit. The question of title, the validity of the power deed executed by Parasakthi in favour of T.S.Kannan and the sale deed executed by T.S.Kannan in favour of Subramanian as a power agent and the fact that whether the power deed was actually cancelled even before the execution of the sale deed or not, are all have to be decided only in the trial and could not be decided in this petition. Therefore, this Court is of the view that without impleading the Proposed Parties herein in the above suit, the above facts in dispute would remain unanswered and it would be difficult for this Court to arrive at a fair and complete adjudication of the disputes. Hence, this Court is inclined to allow this petition.

Result:

In the result, with the above observations, this petition is allowed. The Proposed Parties No.1 and 2 are hereby impleaded as Defendants in the above suit. 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 10th day of September 2025.

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

Petitioner side witness and documents	-	Nil.
Respondents side witness and documents	-	Nil.
Proposed Parties side witness and documents	-	Nil.

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

