



IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.

Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munsif, Vadipatti

Dated this the 03rd day of September 2025

IA. No.04 / 2025

In

O.S. No.174 /2009

CNR. No.TNMD190000862009

S. Pitchai,

S/o. Late. Sadaiyandi

---- *Petitioner / Plaintiff*

//Versus//

1. S. Sadaiyandi (Died),

S/o. Late. Subban

2. Kumaraye,

D/o. Late. Sadaiyandi

3. Alagammal,

D/o. Late. Sadaiyandi

4. Velan,

S/o. Late. Sadaiyandi

5. Karuppaye,

D/o. Late. Sadaiyandi

---- *Respondents / Defendants*

6. *Ranjith,

S/o. Velan

7. The Sub Registrar,

Alanganallur, Vadipatti.



---- *Respondents / Proposed*

Defendants

** Amended as per order passed in I.A. No.5/2025 dated 19.07.2025*

This petition was filed before this Court on 17.03.2025 coming before me for final hearing on 03.09.2025, Advocate Thiru. R.J. Surendran appeared for Petitioner / Plaintiff. R1 died. R2, R3, R5 and R7 were set ex-parte on 03.06.2025. Advocate Thiru. M. Vallinayagam appeared for R4 and Advocate Thiru. K. Mariappan appeared for R6, later set exparte on 03.09.2025. Upon hearing the arguments advanced by both the sides' counsel and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. This petition was filed under order 1 rule 10 (2) of CPC to implead the 6th and 7th respondents as a party to the main suit.

2. **Petition averments in brief:**

The petition contention was that, the petitioner was the plaintiff in the main suit and the respondents 1 to 4 were sisters and brothers of the petitioner. Further the petitioner pleaded that the suit property belonged to the petitioner's father. The petitioner's father had unlawfully alienated the suit property in favour of the 6th respondent, without partitioning the suit property among all his legal heirs and later he passed away leaving behind the petitioner and 1 to 4th defendants as his legal heirs. Thus the main suit was filed for partition and to declare the settlement deed executed in favour of the 6th respondent as null and void. the 7th respondent was the SRO. Being so, it was found that the previous counsel omitted to pay the court fee for the relief of declaration and to implead the 6th and 7th respondents as parties to the suit. Thus, the petitioner / plaintiff filed this petition, seeking leave of this court to implead the 6th and 7th respondents as parties to the main suit.



3. **Counter averments in brief:**

The respondents / proposed defendants denied all the petition averments and argued that this suit was of the year 2009 and this petition was filed after a long period of 15 years. The petitioner was well aware of the proposed defendants since the time of filing this suit. Thus this petition was barred by limitation. Thereby the petition was filed only to delay the suit proceedings. Thus this petition was liable to be dismissed with costs.

4. **Point for determination :** Whether this petition can be allowed?

i. Records perused. Admittedly the main suit was filed for partition. The suit was pending for plaintiff side evidence. The petitioner had filed this petition to implead the 6th and 7th respondents as a parties to the main suit. The petitioner's contention was that the 6th respondent obtained settlement deed in respect of the undivided suit property from the petitioner's father by denying the right of the other legal heirs of the petitioner's father. But the 6th and 7th respondents were omitted to array as parties to the suit at the time of filing this suit by the previous counsel. On the other hand, the respondents challenged the petition stating that the petitioner had willfully and wantonly omitted to add 6th and 7th respondents as parties to this suit and this present petition was filed only after long delay. Thus the petition was not at all maintainable in law.

ii. Both side parties did not let in any evidence on their side.

iii. This petition was filed under **Order 1 rule 10(2) of C.P.C.**, the proceeding runs as follows,

“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.”

Thus according to the above provision a "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made.

iv. Admittedly, the petitioner filed this petition to add the 6th and 7th respondents as parties to the main suit, as the 6th respondent was the son of the 4th respondent and he had obtained settlement deed in favour for the suit property. Further the burden is on the petitioner, to prove his case. But the petitioner did not adduce any documents to prove his contention. On the other hand the 4th respondents refused the contention of the petitioner and alleged that the petition filed after long delay to implead the 6th and 7th respondents as parties to the main suit. Thereby the petitioner cannot challenge the settlement executed in favour of the 6th respondent in respect of the suit property by the petitioner's father. Admittedly, both parties dispute the title of the suit property. No evidence was let in by both parties to show cause their case. In this petition the petitioner had pleaded that the main suit was filed for 1/5th share of the suit property and to declare that the settlement deed executed in favour of the 6th respondent as null and void. But no relief of declaration was sought in the suit. Also from both side pleadings this court can find that the suit property was settled in the name of the 6th respondent, thus as the suit property stand in the name of the 6th respondent at present, he is a necessary party to the suit. From the above discussions, this court is of the view that allowing this petition would not cause any serious impact to the respondents to proceed with the suit proceedings, but only aid this court to decide the main suit. In view of the foregoing reasons, this court is inclined to permit the petitioner to implead the 6th and 7th respondents as parties to this main suit.



5. ***In the result***, the petition is allowed, without cost.

Directly dictated to the Stenographer and computerized, error checked and pronounced in the open court on 03rd day of September 2025.

District Munsif,
Vadipatti.

Petitioner side evidence and documents : Nil

Respondents side evidence and documents: Nil

District Munsif,
Vadipatti.



DISTRICT MUNSIF COURT
Vadipatti
Fair Order
IA. No.04/2025
In
O.S. No.174/2009
Date : 03.09.2025