

IN THE COURT OF THE DISTRICT MUNSIF, SANKARI

**Present: Tmt. R. ELAMATHI, B.A., B.L.,
District Munsif Court, Sankari
Tuesday, the 02nd day of September, 2025**

**I.A. 12/2024
in
O.S.210/2015**

Venkattammal ... Petitioner / 3rd Party

//Versus//

1. Arulmighu Annamalaiyar Thirukovil
Rep. by its Dharmakartha
A. Natarajan (Died)

2. N. Arulkumar ... Respondents / Plaintiffs

3. Maheswari
4. Chinnappan ... Respondents / Defendants

This petition taken to file on 05.04.2024 and coming on this day 12.08.2025 for hearing before me in the presence of Thiru. M. Panneerselvam Advocate for the Petitioner and of Thiru S. Christopher and S. Mannarsamy Advocates for the 2nd Respondent and Thiru. M. Panneerselvam Advocates for the 3rd and 4th Respondent and R1 died and after perusing the Petition, Counter and hearing on both sides, this Court passed the following,

ORDER

This Interlocutory Application has been filed under Order 1 Rule 10 (2) of Civil Procedure Code by the Petitioner/ 3rd Party seeking to implead herself as the 3rd Defendant in the O.S.No.210/2015 filed by the Respondents.

2) The Gist of the petition:-

2.1) The petitioner averred that she is the Petitioner/ 3rd Party in the suit. The plaintiffs have filed suit for permanent injunction against petitioner's husband and sister. One of the suit property S.No.384/6 of Koneripatty Agraharam Village, Sankari Taluk. The petitioner submit that her mother viz.Kuttiammal is real owner of the S.No. 384/6 of property. That, S.No.384/6's previous Survey Number is 111/6. The Petitioner's mother enjoyed this property for past 65 years without any let and hindrance. The Plaintiffs are well known this facts. But, the plaintiffs have not filed suit on petitioner's mother name. The Plaintiffs wantonly neglected her mother's name in the suit. The Petitioner mother viz.Kuttiammal is an absolute owner of the said property. The Plaintiffs are not owner of the said property. The plaintiffs are not in possession and enjoyment of the said property. The plaintiffs wantonly not added her mother's name in this suit. The respondents 1 and 2 are not in possession and enjoyment of the suit property in S.No.384/6 at any point of time. The Natham 'A' Register for Natham S.No.384/6 stands in the name of her mother. The Natham 'A' register for suit property in Natham S.No. 384/6 shows that her mother was in possession of the said property. After the death of her mother, petitioner and the defendants 1 and 2 are in joint possession and enjoyment of the same.

2.2) During pendency of the suit, petitioner's mother Kuttiammal died. The petitioner and petitioner's sister Maheswari are only legal heirs of petitioner's mother. As per law, petitioner have got 1/2 share in the S.No.384/6 of the Koneripatty Agraharam Village property. After death of her mother petitioner have been enjoying the said property (S.No.384/6) along with petitioner sister, till date without any let and hindrance. In order

to grab the suit property in Natham S.No.384/6 from the petitioner and the defendants. The respondents 1 and 2 had filed this suit. The Petitioner necessary and proper party of the suit. Hence, petitioner file this implead petition to implead petitioner as party / 3rd defendant in the suit. Therefore prays for allowing this petition.

3) The Brief Averments of the Counter filed by Respondent :-

3.1) The Respondent contends that the petition filed by the petitioner is false, frivolous and unsustainable in law and on facts. The petitioner / 3rd party is put to strict proof of the averments made in the affidavit except those that are specifically admitted hereunder. It is true and correct to state that these respondents / plaintiffs have filed suit for permanent injunction against the defendants. It is true and correct to state that the one of the suit property S.No.384/6 of Koneripatty Agraharam Village, Sankar Taluk. It is true and correct to state that during pendency of the suit the petitioner's mother kuttiammal died and the petitioner and her sister Maheswari are only legal heirs. The rest of the averments are false. It is submitted that in the above suit both side Evidence was heard and closed and now it is posted for the Arguments. The proposed party has no locus standi to come forward with this present application only to drag on the proceedings. The proposed party is neither necessary party nor proper party to this suit. Therefore, prays for dismissal of the petition.

4) No oral and documentary evidences were adduced on both sides.

5) Point for Determination:-

Whether the Petitioner/ 3rd party is entitled for the relief as prayed for?

6) Heard Both sides learned counsels. Records perused. This Interlocutory Application is filed by the Petitioner/ 3rd party Under Order 1 Rule 10 (2) of Civil Procedure Code seeking to implead herself as 3rd Defendant in the suit in O.S.No.210/2015. The case of the petitioner/ 3rd party is that the suit schedule property in S.No.384/6, Koneripatty Agraharam Village, Sankari Taluk, originally belonged to the petitioner's mother named Kuttiammal. The old Survey Number of S.No.384/6 is S.No.111/6. The petitioner/ 3rd party submits that her mother is in peaceful possession in the suit property for past 65 years. The Respondents/Plaintiffs have not impleaded her mother in the main suit. The petitioner submits that the Respondents/Plaintiffs are not in possession and enjoyment of the suit property. In Revenue records such as 'A' register, S.No.384/6 stands in the name of her mother. After the death of petitioner's mother, petitioner and defendants 1 and 2 were in joint possession and enjoyment of the same. The petitioner / 3rd party submits that she and her sister Maheshwari were the legal heirs of said Kuttiammal, as per law petitioner is entitled to get 1/2 share in the S.No.384/6 of Koneripatty Agraharam Village. Therefore, the petitioner contends that she is a necessary and proper party to the suit as any decision rendered in her absence will cause irreparable loss and hardships.

6.1) On the other hand the Respondents/Plaintiffs strongly denies the claim of ownership and possession of the petitioner/ 3rd party (or) her mother. It is their specific case that the present application is filed belatedly, after the evidence of both sides was closed, and that the petitioner has no locus standi in a suit for bare injunction. Respondents/Plaintiffs submits that in a suit for permanent injunction, the Respondents/Plaintiffs is dominey litis and it is for him to choose against whom he seeks relief. The respondents further alleges that the proposed

party is neither necessary nor necessary party and the impleading petition is only to protract the proceedings.

6.2) Upon careful consideration of the contentions of both sides, this court is bound to elucidate the scope of Order 1 Rule 10(2) of CPC, “the court may at any stage of the proceedings either upon (or) without an application, add any person as party whose presence before the court may be necessary for effective and complete adjudication of the issues involved.” This court is obliged to cite judgment of the Hon’ble Supreme Court **In Kasturi – Vs – Iyyamperumal (2005) 6 SCC 733** held that “In a suit for injunction relating to immovable property, only two persons are necessary; the plaintiff and the person against whom injunction is claimed. A stranger to the title cannot be impleaded even if such stranger claims ownership, because such rights can be agitated in separate proceedings.” In the present case, the relief sought in the suit is bare injunction restraining the defendant’s from interfering with the plaintiff’s possession. The issue to be decided is possession on the date of the suit and not title. The base claim of the petitioner is that her mother, deceased Kuttiammal is the owner of the suit property of the suit property and after her demise the petitioner and the 1st defendant were her legal heirs and they succeeds the suit property and were in enjoyment and possession, such a claim directly raises title dispute, which is beyond the scope of a bare injunction suit. The petitioner is free to workout her rights in appropriate proceedings, but, she cannot compel her impleadment in this suit. Applying the ratio in **Kasturi – Vs – Iyyamperumal** (supra), this court finds that the presence of the petition is not necessary for the effective adjudication of the injunction relief claimed. The Respondent/Plaintiff is dominus litis is entitle to choose his adversaries. The main suit is filed in the year 2015. On 12.12.2022 the suit was adjourned for arguments and on 20.10.2023 PW1 to PW4 were

recalled for the purpose of cross examination. Now, the suit is in cross of PW2 stage. This suit is not for Declaration (or) Mandatory injunction, it is only for bare injunction, the impleadment of the petitioner is not necessary at this stage, it will delay the disposal of the suit. Based on the discussions made above, this court holds that the petitioner is neither a necessary party nor a proper party to the present suit.

7) In the result, this Interlocutory Application is dismissed. No cost.

This order directly dictated to the Steno-typist and typed by him and corrected by me, and Pronounced in the Open Court in the 02nd day of September, 2025.

**District Munsif,
Sankari.**

Encl:

Petitioner side Witnesses & Exhibits:- NIL

Respondents side Witnesses & Exhibits:- NIL

**District Munsif,
Sankari.**

District Munsif Court, Sankari.
Draft / Fair Order
I.A.12/2024 in
O.S. No.210/2015
Date: 02.09.2025
