

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

Present: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Thursday, this the 14th day of August 2025

I.A.No. 05 of 2024

in

O.S. No. 219 of 2015

(CNR No.TNSA17-000171-2015)

Chinna Irusan

... Petitioner/Plaintiff

/Versus/

1. Vasanthakumar
2. Kanagaraj
3. Selvaraj @ Chinnaiyan
4. Vellaiyammal
5. Rajalingam
6. Manikandan

... Respondents/Defendants

7. Govindammal
8. Vellaiyammal
9. Sathya
10. Vattamalai
11. Amutha
12. Silambarasan
13. Rajamani
14. Chinnapillai@ Mariammal
15. Palaniammal
16. Jaya
17. Shanthi

... Respondents 7 to 17/Proposed parties 1 to 11

This petition is heard in the presence of Mr. P. Gopinath., B.Sc., B.L., the learned counsel for the petitioner/plaintiff and Mr. N. Manikanda Jayakumar., M.Sc., M.L., the learned counsel for the 4 to 6 respondents/defendants and Mrs. S. Saradha., B.A., L.L.B., the learned counsel for the 17th respondent/proposed party and Mr. K.P.Swaminathan., B.Com., B.L., the learned counsel for the 1 to 3 respondents/1 to 3 defendants and 7 to 10, 12 to 15 respondents/proposed

parties. The 11th respondent is set-exparte on 16.12.2024. Enquiry heard on both sides and having stood over for my consideration till this day, this court delivered the following,

ORDER

This petition has been filed by the petitioner/plaintiff to implead the proposed parties herein as a parties to the suit proceedings.

1. Brief facts in the petition is as follows:

1.1. The petitioner is the plaintiff in the original suit and the same was filed for the relief of partition and separate possession. The suit properties are ancestor Hindu joint family properties of the petitioner and the defendants and the same was originally belongs to One Suruttaian @ Poovirusa Gounder, who is the father of the petitioner and the grandfather of the respondents 1 to 3 and 5, 6. He had got 3 sons and 5 daughters. The Chinnamuthu was died leaving his wife and 2 sons i.e) the respondents 4 to 6 herein to succeed his estate. On 22.12.2003, the said Suruttaian @ Poovirusa Gounder was died intestate leaving his 3 sons namely Manickam, Chinna Irusan and Chinnamuthu's legal heirs. The petitioner and the respondents are in joint possession and enjoyment of the properties and having joint patta in their names.

1.2. The respondents 1 to 3 are brothers and sons of the deceased Manickam. The 4th respondent is the wife of the deceased Chinnamuthu and respondents 5 and 6 are the sons of the 4th respondent. The petitioner alone taken care of the joint family. The father of the respondents 1 to 3 namely Manickam was killed by the 5th and 6th respondent's namely Chinnamuthu and a criminal case was foisted on him. In order to safe guard the family of the said Manickam, the petitioner's father namely Suruttaian @ Poovirusa gounder had executed a sale deed in favour of the 1 to 3 respondent's mother. To the sequent,

the petitioner's father had directly purchased the properties and directly executed a sale deed in favour of the 4th respondent in order to safe guard the respondents 4 to 6. It is well known to the entire villagers.

1.3. The father of the petitioner, the said Suruttaian @ Poovirusa gounder had executed a registered will in favour of his grandson Govindarajan, who is none other than the petitioner's son. The suit properties were kept by his father Suruttaian @ Poovirusa gounder as his life estate. Due to his old age, the petitioner alone maintained the properties as well as his father in a wealthy manner. Subsequent to his demise, the petitioner is enjoying the properties in common without any partition. Since, the respondents 1 to 3 and 5, 6 are minors, the petitioner advised to arrange partition after they attained majority as per their wish. But the respondents were no amenable for peaceful partition.

1.4. The respondents has contested the case and filed their written statement stating that the said Suruttaian @ Poovirusa gounder daughters are ought to have been impleaded as party to the case. In their detailed cross examination, they had also raised such a plea as about the female heirs. The petitioner is claiming the relief in respect of the self acquired properties of his father Suruttaian @ Poovirusa gounder. His father had also given periodical seers and sovereign gold to them. So the female heirs did not claim the share over the suit properties. Hence, the petitioner had bonafidely left them out from the case. But for the legal compulsion about the amended act, the petitioner is advised to implead them as party to avoid future complications.

1.5. The proposed parties 1, 2 and 8 are the daughters of the said Suruttaian @ Poovirusa gounder and the sisters of the petitioner. The 3rd proposed party is the daughter of the deceased sister Kunjammal. The proposed

parties 4 to 7 are the daughters of the deceased sister Mariammal. The 9th and 10th proposed parties are the daughters of the deceased brother Manickam. The 11th proposed parties are the daughters of the deceased brother Chinnamuthu. The said LR's of the deceased does not claim any relief over the suit properties and for proper and necessary adjudication, the above persons are necessary parties to the proceedings. Hence, this petition.

2. Brief facts in the counter filed by the 4th respondent and adopted by the respondents 5, 6 and 17 is as follows :

2.1. These respondents denied the averments made by the petitioner in his petition. The suit is filed for the relief of partition and hence the necessary parties have to be added in the suit. But the petitioner had filed this suit without adding the necessary parties. The petitioner had also not included all the properties belongs to the Suruttai gounder. The petitioner is the reason for the demise of the Chinnamuthu. After his demise, the petitioner with evil intention trying to grab the properties. He also threatening the Manickam's family. The alleged will is a false one and there is no evidence for the same.

2.2. No property was allotted to the Chinnamuthu or his legal heirs as alleged by the petitioner. Since, it is averred that the said Suruttai gounder had executed a will in respect of some properties in favour of his son Govindaraj, the said properties and his son Govindaraj has to be impleaded in the suit in order to arrive a final conclusion. The petitioner is not made this application to implead all the legal heirs of the said Suruttai gounder. The husband of the deceased Kunjammal namely Chinnathambi was still alive. These respondents had put forth the plea of non joinder of parties in their written statement and also cross examined the petitioner side witness in this regard. After that, the petitioner had

come forward with this petition at the stage of post trial. Hence, this petition is liable to be rejected.

3. The 1 to 3 respondents/1 to 3 defendants and 7 to 10, 12 to 15 respondents/proposed parties had endorsed as no counter. The 11th respondent is set-exparte on 16.12.2024.

4. No oral and documentary evidence on either side.

5. Point for Consideration:

(i) Whether this petition has to be allowed or not ?

6. Both side rival submissions heard with regard to their respective pleadings and perused the materials on records. The original suit was filed by the petitioner/plaintiff for the relief of partition directing the defendants to divide the suit properties into 9 equal shares and to allot 3 shares to him and for consequential relief of permanent injunction. The stage of the suit is for plaintiff side further evidence. At this stage, the petitioner had come forward with this petition to implead the proposed respondents herein in the original suit proceedings as defendants.

7. It is the contention of the petitioner that the respondents/defendants had filed their written statement disputing that the daughters of the deceased Suruttaian @ Poovirusa gounder are ought to have been impleaded as party to the case and they had also raised the said plea during the cross examination of the petitioner/plaintiff side witness and hence, this petition is filed to implead the surviving daughters and the legal heirs of the deceased daughters of the said Suruttaian @ Poovirusa gounder, who is the father of the petitioner herein.

8. This court gone through the pleadings of the either side. Admittedly, the respondents/defendants had raised the plea of non joinder of necessary parties to the suit proceedings. The petitioner/plaintiff in his plaint pleadings averred that the female heirs of the said Suruttaian @ Poovirusa gounder had released their rights over the suit properties. As already held supra, this is the suit for partition. Such being the position, all the legal heirs of the person from whom the property is claimed has to be added as a party to the suit proceedings irrespective of whether they relinquished thier rights or not in order to arrive a fair and final conclusion in this case. Therefore, this court is satisfied that the proposed parties herein, being the femal legal heirs of the deceased Suruttaian @ Poovirusa gounder are all necessary parties to the suit proceedings and they have to be certainly impleaded in this case in order to secure and safe guard their valuable rights if any available to them.

9. The contesting respondents, who filed their counter had averred that the petitioner had not impleaded the husband of the deceased Kunjammal, who is the sister of the petitioner by name Chinnathambi, who was still alive and he had also not included all the properties belongs to the Suruttai gounder. Admittedly, the respondents had not produced any materials to establish his above contention. As such the suit is for the relief of partition, the petitioner is bound to implead the necessary parties to the suit proceedings. Since, either side had not produced any materials with regard to the some other necessary parties to the suit proceedings and also about any of the properties alleged to be left out by the petitioner, the same could not be decided in this petition. So the above contentions are left open to be decided in the original suit proceedings. The other contentions raised by the contesting respondents is also not relevant for the decision of this present application and the said averments can only be decided only after considering the oral and documentary evidence, if any, produced by

the either side. Therefore, from the overhaul discussion, this court is inclined to allow this petition.

In the result, this petition is allowed. Considering the facts and circumstance of this case, there is no order as to cost.

This order is typed by me in my official laptop, corrected and pronounced by me in the open court on this 14th day of August 2025.

**Sd./-Thiru.M.Selvam,
District Munsif,
Mettur.**

Both side witnesses and documents: Nil

**Sd./-Thiru.M.Selvam,
District Munsif,
Mettur.**