

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

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

District Munsif, Mettur

Wednesday, this the 17th day of September 2025

I.A.No. 03 of 2024

in

O.S. No. 143 of 2023

(CNR No.TNSA17-000201-2023)

M. Selvi

... Petitioner/Plaintiff

/versus/

1. Dhanam
2. Rajendran
3. Chandrasekaran
4. Indira

... Respondents/Defendants

5. The District Collector, Salem
6. The Tahsildar, Mettur Dam

... Proposed Parties/Respondents

This petition is heard in the presence of Mr. M.K. Arjunan., B.A., B.L., the Learned counsel for the petitioner/plaintiff and Mrs. K.Kokilavani., M.A., B.L, the Learned counsel for the respondents/defendants and Mr. S. Harinarayanan., B.Com., B.L., the Learned Government Pleader for the proposed parties/respondents. 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 Tahsildar, Mettur and the District Collector, Salem as a party to the suit proceedings.

1. Brief facts in the petition is as follows:

1.1. The petitioner is the plaintiff in the original suit, which was filed on 21.07.2023 for the right of easement to direct the respondents/defendants from in any way putting the construction at the north edge of the petitioner's property and to leave space to get in air and sun light. The suit is filed on 21.07.2023. After filing of the suit, the respondents have completed the construction work. By the action of the respondents in completion of their construction work, the air and light of the petitioner's house is prevented.

1.2. As a owner of the suit property, the petitioner is having every right to get air and light to her house. The suit property is a natham poramboke land and the petitioner is in possession of the same. Hence, the petitioner wants to seek the mandatory injunction to remove the newly constructed portion and to direct the tahsildar, mettur to issue patta to the suit property. In order to meet the ends of justice, the petitioner wants to implead the Tahsildhar as necessary party to the suit proceedings. The District Collector is the superior officer of the Tahsildar, hence, he has to be added as formal party. Without impleading them, the suit is hit by non joinder of necessary parties. Hence, this petition.

2. Brief facts in the counter filed by 3rd respondents and adopted by the 1, 2, 4 respondents/defendants is as follows:

2.1. These respondents specifically denied the averments made by the petitioner in her petition. The petitioner had constructed his house in his total extent of 1375 sqft and filed a suit in O.S.No. 33 of 2003 alleging that 4 feet was in these respondents property and A.S.No. 21 of 2006. But the same was disposed alleging that there was no such 4 feet in these respondents property and the petitioner is having land to an extent of 30 centimeter in his southern side and 20 centimeter in the eastern side. Till such time, the petitioner had not filed

this suit claiming the right of easement. The petitioner has to establish whether she is having the right of easement in the respondents property.

2.2. The petitioner had constructed her property by fixing the windows as it opening from the outside of his house i.e) in these respondents property in order to cause disturbance to these respondents. These respondents had started to construct their washroom on 12.06.2023. At that time, the petitioner had started quarrel that she is having 4 feet therein and also abused the workers and poured water on them. Further, she had lodged complaints before the police station and with the police officers threatened these respondents. After arriving of the revenue officials and they had measured the property of the petitioner and had shown that the petitioner is having land only to an extent of 30 centimeter in her southern side and 20 centimeter in the eastern side. Then the police officials had advised the petitioner and leaved the place. Therefore, the petitioner cannot claim any right over the suit 'B' schedule property.

2.3. These respondents had constructed the bathroom in their property and also constructed a room in it's upper portion with thatatched sheet and was using the same. During rainy season, since their building should not be damaged, they had constructed a pipe line attached with the thatched sheet and was draining the rainy water. These respondents constructed their compound wall within their property. This petition is filed only to protract the suit proceedings, who are all not a necessary parties. There was no averments that the petitioner had given any petition to the Tahsildar, Mettur to issue patta or whether the said proceedings are pending or whether no action is taken as against it. Hence, this petition is liable to be dismissed.

3. The proposed parties/respondents had endorsed to pass orders on merits.

4. No oral and documentary evidence on either side.

5. Point for Consideration:

(i) Whether the proposed parties namely the Tahsildar, Mettur and the District Collector, Salem has to be impleaded in the original suit proceedings ?

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 granting right of easement to the petitioner/plaintiff by directing the respondents/defendants and their men from in any way putting up constructions at the northern edge of their property and leave space for air and sunlight.

7. This present petition is filed by the petitioner/plaintiff to implead the Tahsildar, Mettur and the District Collector, Salem contending that after filing of the suit, the respondents had completed their construction work and the air and light of the petitioner's house is prevented and now she wants to seek the relief of mandatory injunction to remove the newly constructed portion and to direct the Tasildhar Mettur to issue patta for the suit property and since, the suit property is an natham poramboke land, the Tasildhar, Mettur and his superior officer the District Collector, Salem are all necessary parties to the suit proceedings.

8. Admittedly, the petitioner had not filed any petition till this time to amend the plaint by seeking the relief of mandatory injunction or to direct the Tasildhar, Mettur to issue patta as alleged in this petition. At the foremost, it has to be decided whether the alleged relief can be amended in the plaint or not. Then only the question of whether the proposed parties are necessary parties to the suit proceedings or whether they should be impleaded in the suit or not would arise. But the petitioner had not taken any such steps to amend the plaint

till this day for the best reason known to her. In this context of necessary parties and proper parties, this court wants to rely on the observation of **Our Hon'ble Supreme Court** in the case of **Mumbai International Airport Private Limited v. Regency Convention Centre and Hotels Private Limited and Others** reported in **2010 (7) SCC 417**, in which their Lordships had held as follows,

“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. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.”

It is crystal clear from the above observation, that 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 and that 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. It is further held, that if a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him. As already stated supra, since the petitioner had not made any such application to amend the suit with the relief as alleged in this petition, the question of impleading them as a necessary parties would not arise at this juncture. Hence, in the interest of justice, this court is inclined to dismiss this petition.

In the result, this petition is dismissed. Considering the facts and circumstances 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 17th day of September 2025.

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

Both side witnesses and documents: Nil

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