

IN THE COURT OF DISTRICT MUNSIF COURT, METTUR, SALEM DISTRICTPresent: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Wednesday, this the 17th day of December 2025**I.A.No. 02 of 2024****in****O.S. No. 155 of 2022**

(CNR. No. TNSA17-000230-2022)

Palaniammal

... Petitioner/Plaintiff

/Versus/

1. Palanisamy

...1st Respondent/Defendant

2. Rathinavel

3. Siddaiyan

...Respondents 2 and 3/Proposed Parties

This petition came up before me for final disposal in the presence of Mr. R. Raja., B.A., L.L.B., the learned counsel for the petitioner/plaintiff and Mr. S. Mohanram., M.A., M.L., the learned counsel for the respondents/defendants/proposed parties. Enquiry heard and having stood over for my consideration till this day, this court passed the following:-

ORDER

Petition filed by the petitioner/plaintiff to implead the respondents 2 and 3/proposed parties as defendants in the original suit.

1. Brief averments in the petition is as follows:

1.1. The petitioner is the plaintiff in the original suit, which is filed for the relief of partition and separate possession in respect of the suit property as against the 1st respondent. The suit property and other properties are ancestrally belongs to the grandfather of the petitioner namely Muniyagounder. During his life time, he had orally partitioned the properties in favour of the father of the petitioner namely

Ramu and his brother, the 1st respondent herein. The suit property is left for the livelihood of her wife namely Lakshmi @ Lakshmiammal and it was agreed that to partition the suit property after the demise of the said Lakshmi @ Lakshmiammal between the father of the petitioner and the 1st respondent.

1.2. After that, the said Muniyagounder was died on 20.03.1981 leaving the father of the petitioner, the 1st respondent and a daughter namely One Kamala and his wife Lakshmi @ Lakshmiammal. Later, the father of the petitioner was died on 15.07.2012 and the said Lakshmi @ Lakshmiammal was also died on 11.08.2022. Since, the suit property was agreed to be partition between the father of the petitioner and the 1st respondent, the said Kamala was not added as a party to the suit proceedings.

1.3. In the meantime, the petitioner had filed a suit in O.S.No. 35 of 2018 on the file of this court as against her mother in respect of the properties allotted to the father of the petitioner and a compromise decree was passed on 14.07.2018. After the demise of the said Muniyagounder and his wife Lakshmi @ Lakshmiammal, the petitioner and the 1st respondent is having $\frac{1}{2}$ share each in the suit property. But the 2nd respondent, who is the son of the 1st respondent had fraudulently obtained a will dated 24.12.1999 from the said Lakshmi @ Lakshmiammal in respect of the suit property in his name and had sold it to the 3rd respondent on 12.10.2022 in document no. 5663/2022. Therefore, the said documents are non est in law and does not bind the share of the petitioner. Hence, the 2nd and 3rd respondents has to be impleaded in the suit proceedings and thereby, this petition is filed by the petitioner.

2. Brief averments in the counter filed by the 2nd respondent and adopted by respondents 1 and 3 is as follows:

2.1. The respondents denied the averments made in the petition. It is true that the suit properties and other properties are ancestrally belongs to One

Muniyagounder and he had partitioned the properties between the father of the petitioner and the 1st respondent leaving the suit property for the livelihood of his wife namely Lakshmi @ Lakshmiammal. But it was not at all agreed to partition the suit property between the father of the petitioner and the 1st respondent after the demise of the said Lakshmi @ Lakshmiammal.

2.2. The petitioner had been living in her matrimonial home after the marriage took place in the year 1992. After 6 month of her marriage, the said Lakshmiammal was felt ill and was also admitted in hospital. Though the information was given to the petitioner through phone call, she had not turned up to take care of the said Lakshmiammal. The 2nd respondent, who is the son of the 1st respondent is alone taken care of the said Lakshmiammal after the death of her husband Muniyagounder. Since, the 2nd respondent taken care of the said Lakshmiammal for nearly 10 years, the patta property in the name of the said Lakshmiammal was bequeathed by her in favour of the 2nd respondent vide a will dated 27.12.1993.

2.3. In the year 2013, the Lakshmiammal was met with an accident and was sustained fracture in his legs and was became bedridden. But even then, the petitioner had not turned up to see the said Lakshmiammal. The 2nd respondent had look after all the medical expenses from borrowing loan from the 3rd respondent. The Lakshmiammal was died on 11.08.2022 and her final rituals was also taken care by the 2nd respondent. The 2nd respondent had sold the suit property on 10.10.2022 to the 3rd respondents for the loan borrowed by him for the medical expenses and final rituals of the said Lakshmiammal. From the date of purchase, the 3rd respondent is in possession of the suit property. Hence, the petitioner is not having any right over the suit property and therefore, the proposed parties are also not needed to be added in the suit.

3. No oral and documentary evidence on either side.

4. Points for Consideration:

(i) Whether the proposed parties are necessary parties to the suit proceedings and whether they have to be impleaded in the same ?

5. Both side rival submissions heard with regard to their respective pleadings and perused the materials on record. The original suit is filed by the petitioner/plaintiff for the relief of partition to divide the suit property into two equal shares and to allot one such share to the petitioner/plaintiff and for separate possession.

6. It is the contention of the petitioner that the suit properties and other properties are ancestrally belongs to One Muniyagounder and he had partitioned the properties between the father of the petitioner and the 1st respondent leaving the suit property for the livelihood of his wife namely Lakshmi @ Lakshmiammal and it was agreed to divide the suit property after the demise of the said Lakshmi @ Lakshmiammal between the father of the petitioner and the 1st respondent. Later, the said Muniyagounder was died on 20.03.1981 and the father of the petitioner was died on 15.07.2012 and the said Lakshmi @ Lakshmiammal was also died on 11.08.2022. Therefore after too, since the petitioner had insisted for amicable partition, the 1st respondent had not come forward and hence, the suit is filed by the petitioner for the partition of her ½ share in the suit property.

7. It is the further contention of the petitioner that after filing of the suit, it has been came to know that the 2nd respondent, who is the son of the 1st respondent had fraudulently obtained a will dated 24.12.1999 from the said Lakshmi @ Lakshmiammal in respect of the suit property in his name and had sold it to the 3rd respondent on 12.10.2022 in document no. 5663/2022.

8. Though the contention of the petitioner to the above said effect was disputed by the respondents, they had admitted about the execution of the will

dated 24.12.1999 in respect of the suit property in favour of the 2nd respondent and the sale held between the 2nd and 3rd respondent in respect of the suit property on the basis of the alleged will. At this juncture, this court wants to rely on the observation of **Our Hon'ble Madras High Court** in the case of **Nanja Naicken vs Rangammal** reported in **1972 (2) MLJ 12**, wherein their Hon'ble Lordships had held as follows,

'It is the duty of the court in a partition suit to adjudicate upon the claims of all the parties who claim a share in the subject-matter of the suit. Otherwise it would lead to endless anomalies and complications'

It is no doubt that the 2nd respondent is claiming right over the subject matter of the suit by way of a will alleged to be executed by the said Lakshmi @ Lakshmiammal. Therefore, the claim of the 2nd respondent has to be decided in the suit in order to arrive a final conclusion in respect of the shares of the parties in the suit property. The 3rd respondent is a pendent lite purchaser of the suit property from the 2nd respondent. It is well settled that the pendent lite purchaser has to be heard in the matter as their rights will-be substantially affected in the event of any order adverse to their interest is passed in the suit, thereby, they should be given opportunity to participate in the proceeding by impleading them as parties in order to avoid multiplicity of litigation.

10. Therefore, from the overhaul discussion, this court forms opinion that the respondents 2 and 3/proposed parties are necessary and proper parties to the suit proceedings and their presence is necessary in order to arrive a complete and final adjudication in the real matter in dispute between the parties. Hence, this comes to the conclusion, that it is just and necessary to implead the respondents 2 and 3/proposed parties as defendants 2 and 3 in the original suit.

In the result, this petition is allowed. The petitioner/plaintiff is hereby permitted to implead the respondents 2 and 3/proposed parties as defendants 2 and 3 in the original suit. Considering the facts and circumstance of this case, there is no order as to costs.

This order is typed by me in my official laptop, corrected and pronounced by me in the open court on this 17th day of December 2025.

**District Munsif,
Mettur.**

Both side Witnesses and Documents: Nil

**District Munsif,
Mettur.**