

IN THE COURT OF DISTRICT MUNSIF, BODINAYAKANUR.

PRESENT: Thiru.A.Mohamed Hashim, B.A., B.L.,
District Munsif,
Bodinayakanur.

Wednesday, the 11th day of June 2025

IA.No. 2 / 2023
in
OS No. 94 / 2023

1. R.Leelavathi
2. R.Saravanakumar
3. Santha Kumar ... Petitioners / Proposed Parties

Vs

1. Yuvarajan ... Respondent/ Plaintiff
2. The Asst. Executive Engineer,
TNEB No:1,
Thevaram.
3. The Village Administrative Officer,
Thevaram.
4. The Tahsildar,
Bodinayakanur.
5. The District Collector,
Theni.

... 2nd to 5th Respondents / Defendants 1 to 4

This petition came up on 04.06.2025 in the presence of Mr.M.Kamaraj, Learned Advocate for the Petitioners and Mr.S.Selvan, Learned Advocate for the 1st Respondent, and presence of Mr.K.S.N.Shivamani, Learned Government Pleader for the 2nd to 5th Respondents. Upon perusing the case records and having stood over for consideration till this day, this court hereby delivered the following...

ORDER

1.This petition has been filed Under Order 1 Rule 10(2) of CPC to implead the petitioners as defendants in the suit.

2. The main suit is filed by the 1st respondent herein seeking the relief of mandatory injunction directing the 2nd respondent herein to cancel the electricity connection stands in the name of 1st petitioner and to transfer the electricity connection in the name of the 1st respondent.

3. The petitioners herein, who are third parties to the suit proceedings, has filed this petition inter alia contending that the relief sought for in the plaint substantially affects their right and as such they are necessary parties to the lis. To prove their case, the petitioners have filed 3 documents viz. Sale deed executed in favour of Late Mr. Mariyappa Thevar, Settlement deed executed by Late. Mr. Mariyappa Thevar in favour of the 2nd & 3rd petitioners by appointing 1st petitioner as guardian and the Patta stands in the name of the 1st petitioner. The said documents are marked as Ex.P1 to Ex.P3 respectively in this petition.

4. The 1st respondent herein filed his counter refuting all the contentions made by the petitioner. It is further contended in the counter that the petitioners herein does not have any right over the electricity connection of the suit land. But however the petitioners have dishonestly applied for the electricity connection and the 2nd respondent herein erroneously transferred the electricity

connection in favour of the 1st petitioner and as such the petitioners are not at a necessary parties to the suit. In support of his contention, the gift settlement deed executed in favour of the 1st respondent is marked as Ex.R1 and Patta stands in the name of 1st respondent's father is marked as Ex.R2.

5. Interestingly, the respondents 2 to 5 have filed their counter and strongly contesting this petition. It is the contention of the 2nd respondent that the 1st petitioner herein has executed an indemnity affidavit stating that the disputed electricity connection was transferred to her by way of Settlement deed (Ex.P2) and based on which the electricity connection was transferred to her name. Now the 2nd respondent came to know that there is no whisper about the electricity connection in the settlement deed(Ex.P2) and they have accordingly issued show cause notices to the 1st petitioner. The 2nd respondent has filed petition to receive 3 additional documents in this petition and the same was allowed by this Court vide order dated 04-03-2025 in I.A.No:3/2025. Accordingly, the notice issued to the 1st petitioner on 11-09-2023 is marked as Ex.R3, notice issued to the 1st petitioner on 05-12-2023 is marked as Ex.R4 and the postal receipt of Ex.R4 is marked as Ex.R5.

7. Heard either side. Perused the materials available on record. The only point for determination in this lis is whether the petitioners herein are necessary parties to the lis or not?.

8. To determine whether a party is a necessary party to the suit, two essential tests must be satisfied. That are there must be a right to some relief against such party in respect of the controversies involved in the proceedings, and no effective decree can be passed in the absence of such party.

9. The learned counsels appearing for the respondents placed reliance on Ex.R1 to Ex.R5 to substantiate that they petitioners herein have no right over the

electricity connection in dispute. Conversely, the learned counsel for the petitioner relied on Ex.P1 to Ex.P3 to substantiate that they have right over the electricity connection in dispute.

10. This Court refrains from extensively adjudicating the parties' rights over the electricity connection in dispute as the same is matter to be adjudicated in the main suit. The issue in this instant lis lies within a very narrow compass. The 1st respondent claims that the electricity connection was erroneously transferred in the name of 1st petitioner. Even assuming that the electricity connection was erroneously transferred, this Court cannot grant the relief of mandatory injunction behind the back of the petitioners. If such a relief is granted behind the back of the petitioners, this would certainly infringes the rights of the petitioners. Therefore this holds that the petitioners herein are necessary parties to the suit. The suit as framed by the 1st respondent without adding the petitioners as parties to the suit itself bad for non-joinder of necessary parties. But however in order to avoid multiplicity of proceedings, this Court is of the view that this petition deserves to be allowed.

In the result, this petition is allowed. No cost.

Dictated to the typist, transcribed by her corrected, and pronounced by me in open Court, on the 11th day of June 2025.

District Munsif,
Bodinayakanur.

Petitioner Side Witnesses and Documents: -

1.	12-11-1985	Copy of Sale Deed in the name of Mariyappathevar	Ex.P1
2.	30-03-2011	Copy of Settlement deed executed in favour of 2 nd and 3 rd Petitioners.	Ex.P2
3.		Patta in the name of 1 st Petitioner.	Ex.P3

Respondents' side Documents:-

1.	10-03-2015	Copy of Settlement deed executed in favour of 1 st respondent.	Ex.R1
2.	-	Patta in the name of Mariyappathevar	Ex.R2
3.	-	Letter in A.No.173/2023 dated 11.09.2023 issued to the 1 st Petitioner.	Ex.R3
4.		Letter in A.No.215/2023 dated 05.12.2023 issued to the 1 st Petitioner.	Ex.R4
5.	-	Postal Receipt	Ex.R5

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