

IN THE COURT OF DISTRICT MUNSIF, BODINAYAKANUR.

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

Wednesday, the 16th day of July 2025

IA.No. 3 / 2025
in
OS No. 18 / 2021

I.Jeyamery

... Petitioner / Plaintiff

Vs

1. Antony @ Ubari Antony

2. Vimalarani

.... Respondents / Defendants

3. A.Dinesh Sagayam

.... 3rd Respondents/ Proposed defendant

This petition came up on 09.07.2025 in the presence of Mr.S.Alagumalai, Learned Advocate for the Petitioner and Mr.P.Rajamohan, Learned Advocate for the 1st Respondent, and presence of Mr.K.S.N.Shivamani, Learned Advocate for the 2nd Respondent and notice to the 3rd respondent is dispensed. 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 the plaintiff under Order 1 Rule 10(2) of CPC to implead the 3rd respondent as a party to the suit.

2. The main suit is filed by the petitioner herein seeking the relief of declaration that 2nd & 3rd item of the suit properties are common cart track of

both the plaintiff and the defendant and consequential permanent injunction.

3. It is the contention of the petitioner that the 1st respondent has executed settlement deed with respect to 50 cents of his land in favour of the 3rd respondent by virtue of Doc No:1938/2022 on the file of Thevaram Sub Registrar Officer and as such the 3rd respondent is also a necessary party to the suit.

4. Per contra, the 1st respondent filed his counter refuting all the averments in the petition and same is adopted by the 2nd respondent. It is the contention of the 1st respondent that though he had executed settlement deed in favour of the 3rd respondent, the 3rd respondent has re-conveyed the property in the name of the 1st respondent by virtue of settlement deed dated 07-12-2023 in Doc No:3581/2023 on the file of Sub Registrar, Thevaram. Hence the 3rd respondent is not a necessary party to the suit.

5. Heard either side. Perused the materials available on record. The only point for determination in this lis is whether the 3rd respondent herein is necessary parties to the lis or not?. On the side of respondents, the encumbrance certificate of the 1st respondent's property is marked as Ex.R1.

6. 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.

7. The learned counsel for the respondents placed reliance of the encumbrance certificate(Ex.R1) and submitted that as on date, the 3rd respondent has no interest over the disputed properties and as such the 3rd respondent is not a necessary party to the suit.

8. The learned Counsel for the petitioner fairly submitted that he has no

dispute over the fact that as on date, the 3rd respondent is not having any manner of right in the property of the 1st respondent. But however, the learned counsel for the petitioner submitted that there is apprehension that the 1st respondent could convey his rights at any point of time in favour of the 3rd respondent.

9. Admittedly, the 3rd respondent is not having any right over the properties in dispute in the main suit. Therefore this Court is of the view that he cannot be made to contest the suit without having any right or interest. Hence this petition is liable to be dismissed.

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

Dictated to the typist, transcribed by her corrected, and pronounced by me in open Court, on the 16th day of July 2025.

District Munsif,
Bodinayakanur.

Petitioner side Witnesses and Documents :-

- Nil -

Respondent side Witnesses and Documents :-

1.	-	Ex.A1	Copy of Encumbrance Certificate	Online Copy
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District Munsif,
Bodinayakanur.