

IN THE COURT OF III ADDITIONAL DISTRICT & SESSIONS JUDGE,  
DHARAPURAM.

**PRESENT: Thiru.C.M.SARAVANAN,B.A.,L.L.M.,**

III Additional District & Sessions Judge, Dharapuram.

Thursday, the 03<sup>rd</sup> day of April, 2025

**I.A. No. 4 of 2023 in OS. No. 114 of 2021**

T.Pranesh

...Petitioner/4<sup>rd</sup> party/proposed party

Vs.

1.Subbaraya gounder

...1<sup>st</sup> Respondent/plaintiff

2.S.Thangaraj

3.Ananthi

4.Manivel

... 2 to 4<sup>th</sup> Respondents/Defendants

This petition is coming on for final hearing on 21.03.2025, before me in the presence of Shri.S.Murugasamy, Advocate for the Petitioner and Shri.N.P.Sivakumar, Advocate for the 1<sup>st</sup> Respondent/plaintiff and Tmt.S.Chitraponds, Advocate for the 2<sup>nd</sup> Respondent and Shri.C.Iswaramoorthy, Advocate for the 3<sup>rd</sup> and 4<sup>th</sup> Respondents/Defendants and upon hearing both sides and perusing the records and the Petition having stood over for my consideration till this day, this court delivered the following

**ORDER**

This petition is filed under Order 1 Rule 10(2) of the Code to implead the 4<sup>th</sup> Petitioner as Proposed 4<sup>th</sup> defendant in the suit.

**2. The crux of the petition is as follows:**

The petitioner is the son of the 1<sup>st</sup> defendant. The suit properties are joint family properties of the 1<sup>st</sup> defendant, plaintiff and the proposed party. The proposed party is having  $\frac{1}{4}$  share in the suit property. The plaintiff and the defendant sold his share in the suit property on 25.04.2017 to 3 and 4 respondents through a registered sale deed without obtaining any presumption from the court. The petitioner attained majority only on 5.09.2023 as he born on 5.09.2005. He is not added as a party by the plaintiff. Therefore, the petitioner is the necessary party to the suit and he prays to implead him, as the 4<sup>th</sup> defendant.

**3. The crux of the counter is as follows:**

This petition is false, frivolous and vexatious and the same is not maintainable under law and on facts. Except those that specifically admitted herein as true, the petitioner wants to put strict proof of each and every allegations. Absolutely the petitioner is not at all having any merits in this petition and the main suit, hence the petitioners and Respondents 1 and 2 are colluded together and filed this kind of petition to prolong and harass the 3<sup>rd</sup> respondent with intend to dictate to come to the terms of the petitioners. The allegations set-out in the affidavit are not correct one. The petitioner not at all spell any piece of reason to allow the

petition, alleged reasons are untenable and benefit of particulars. Originally the suit was filed by the 1<sup>st</sup> respondent against the respondents 2 and 3 for cancellation of document and permanent injunction. When the suit is pending, the petitioner herein has filed petition without any proof and base and blankly seeking to implead the petitioner himself as 4<sup>th</sup> defendant. It is heavy burden upon the petitioners to prove their allegation spell out in the main affidavit. The 1<sup>st</sup> and 2<sup>nd</sup> respondents are jointly sold the suit property and conveyed the same on 25.04.2017. From the date of the sale deed dated 25.04.2017, the 3<sup>rd</sup> and 4<sup>th</sup> respondent obtained the exclusive possession and enjoying the suit properties without any hindrance from anybody. The petitioner herein has purposefully filed this petition with intend to harass the 3<sup>rd</sup> and 4<sup>th</sup> respondent and collusively filing this petition within intend to extract money from him. Absolutely, the petitioners are not at all having any locus standi to file this petition stating the Hindu Minority and Guardianship Act. That there is no cause of action against the proposed party required to implead. Further there is no necessity of presence of the proposed party to decide the issues involved in the suit. Hence, the petitioner herein has no locus standi to maintain this petition to implead his as 4<sup>th</sup> defendant. The petitioner has simply and purposefully filed this petition without any merits with intend to drag the suit without any merit. It is

submitted that the petition allegations are false one and written statement filed by the respondent are also created for this suit falsely. Hence, this petition is dismissed.

4. It is necessary to decide as to whether the petition is liable to be allowed or not.

5. Heard both sides and perused the records. The learned counsel appearing for the petitioner would contend that, the petitioner is the son of the 1<sup>st</sup> defendant. The suit properties are joint family properties of the 1<sup>st</sup> defendant, plaintiff and the proposed party. The proposed party is having  $\frac{1}{4}$  share in the suit property. The plaintiff and the defendant sold his share in the suit property on 25.04.2017 to 3 and 4 respondents through a registered sale deed without obtaining any presumption from the court. The petitioner attained majority only on 5.09.2023 as he born on 5.09.2005. He is not added as a party by the plaintiff. Therefore, the petitioner is the necessary party to the suit and he prays to implead him, as the 4<sup>th</sup> defendant.

6. Per contra, the learned counsel appearing for the respondent in this case, would contend that, the allegations set out in the affidavit are not correct. The suit was filed by the 1<sup>st</sup> respondent against the 2 to 3 respondents for cancellation of document and permanent injunction. The 1<sup>st</sup> and 2<sup>nd</sup> respondents are jointly sold

the suit property and conveyed the same on 25.04.2017. From the date of the sale deed dated 25.04.2017, the 3<sup>rd</sup> and 4<sup>th</sup> respondent herein obtained the exclusive possession and enjoyment of the suit properties without any hindrance from anybody. The petitioner purposefully filed this petition with intend to harass the 3<sup>rd</sup> and 4<sup>th</sup> respondent and collusively filed this petition with intend to extract money. There is no necessity of presence of the proposed party to decide the issues involved in the suit. Therefore, the learned counsel prays to dismiss the petition.

7. On perusal on records, the suit is filed by the plaintiff for declaring the document No.503/2017 of Mulanur Sub Registrar, dated 25.04.2017 as null and void. The case of the plaintiff is that, the suit property his joint family properties, and hence the sale executed by the plaintiff and the 1<sup>st</sup> defendant to the 2 and 3 defendants is illegal. Therefore, he prays to declare the said petition is null and void. Whereas, the learned counsel for the proposed party would contend that, the proposed party is none other than the son of the 1<sup>st</sup> defendant in this case. He would further state that he also having right over the suit property, since it is a joint family property.

8. Moreover, the plaintiff and the 1<sup>st</sup> defendant without obtaining any permission from the court of law, had sold the share of the proposed party to other

defendants. Therefore, he would contend that he is the necessary party to the suit. The said facts were not denied by the respondent in this petition. Being a member of joint family, no doubt the proposed party also have a share to the suit property. Whether the property had been sold for the welfare of the proposed party can be decided only after the trial. Therefore, as rightly pointed out by the learned counsel for the petitioner, the proposed party is necessary party to the suit, and he must be added as a party to the proceedings in order to attain finality in this case.

9. Considering the facts and circumstances of the case, this petition is allowed and there is no order as to costs.

Dictated to Steno-Typist, taken down by her in short-hand, transcribed and computerized by her and corrected by me in computer and pronounced by me in the Open Court on this the **03<sup>rd</sup> day of April, 2025.**

III Additional District & Sessions Judge,  
Dharapuram.

**Petitioner's side witnesses and documents :** Nil

**Respondent's side witnesses and documents:** Nil

III Additional District & Sessions Judge,  
Dharapuram.

Order IN  
IA.No.4/2023 IN  
OS.No.114/2021  
Date:03.04.2025