

IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUPPUR

Present :- Thiru. K.R.Kannan,B.A., B.L.,
(JO.Code TN01220)
Additional Subordinate Judge,
Tiruppur.

Thursday 04th day of December 2025

I.A. No. 4 / 2025

in

O.S.No. 294/ 2024

S. Chandrasekar

...Petitioner/ Plaintiff

//Vs//

1. Mrs. R. Saleena
2. Mrs. Preethi

..... Respondents / Proposed party

This Petition came before me on 30.10.2025 for the final hearing in the presence of Mrs. S. Nandhini., B.C.A., L.L.B., Advocate for the Petitioner/ Plaintiff, Mr. V. Sajith., B.A. B.L., Advocate for Respondent No. 1 and Thiru. P. Subramanian., B.A., B.L., Advocate for the 2nd respondent/ Proposed party and upon hearing both side arguments, and on perusal of available records, this court delivered the following...

// ORDER //

1. The Petitioner, who is the plaintiff filed this petition Under order I Rule 10(2) and Section 151 of CPC to implead the proposed party as a necessary party to the suit as per the reasons stated in the affidavit.

2. The averments stated in the affidavit filed by the petitioner is as follows :

2.1) The petitioner is the plaintiff in the suit and filed the suit for recovery of money on promissory note along with interest against the respondents.

2.2) The petitioner submit that the defendant sold the suit property to one Mrs. Preethi vide on 13.11.2024 and the said Mrs. Preethi is the present title holder of the suit property and she is enjoying the possession of the suit property and the same came to the knowledge of the petitioner only when the written statement is filed by the first defendant in the above suit.

2.3) In these circumstances, it is just and necessary that Mrs. Preethi needed to be impleaded as the 2nd respondent/ 2nd defendant in the above suit. Unless the petitioner will be put to irreparable loss and hardships and so the petitioner asked to allow the petition as prayed for with cost.

3) Objections raised by the 2nd respondent/ proposed party by way of counter as follows

3.1) The Petition filed by the petitioner is false, frivolous either sustainable in law or on the facts of the case. The Petitioner has to strictly prove all those allegations except which were specifically admitted by this Respondents herein.

3.2) The petitioner filed the suit against the 1st respondent for recovery of money with interest as per the suit pronote. This respondent did not know about the details of the same and never borrowed any amount from the petitioner. This respondent have no knowledge about the transactions between the petitioner and the 1st respondent.

3.3) As per the averments in the affidavit the 1st respondent is the principal debtor and this respondent was no way connected to the said 1st respondent. This

respondent on 13.11.2024 purchased the suit property as per the sale deed No. 5504/2024 without encumbrance. In the encumbrance certificate there is no entry about any charge ordered by this court relating to the suit property. So, this respondent is a bonafide purchaser of the said property. This respondent came to know about the pendency of the suit and the transaction between the petitioner and 1st respondent only after receiving the court notice in this application. So, the 1st respondent alone is liable to pay the suit amount to the plaintiff and this respondent is not liable to pay the same. Since, the principal debtor is already a party to the suit, this respondent is not a necessary party to the suit and the same is hit by Order II R2 of CPC. So, the proposed party asked this court to dismiss the petition with cost.

3. Both side have not lead any oral and documentary evidence and no documents were marked on either side.

4. Now the point for consideration is, whether the petition has to be allowed or not ?

i) The petitioner herein is the plaintiff in the suit. The First respondent is the defendant in the suit. The 2nd respondent is the proposed party in this application. The parties are discussed in this order as pleaded in the plaint.

ii) The plaintiff filed the suit against the defendant for the relief of recovery of money based upon a promissory note executed by the defendant dated 01.06.2023. Along, with the suit the plaintiff filed an application under Order XXXVIII Rule 5 CPC and asked this court directing the defendant to produce the security for the suit amount failing which asked to attach the defendant property.

iii) On perusal of records the suit is filed on 06.09.2024. The application filed under order XXXVIII Rule 5 of CPC was taken on file as I.A.No. 1/2024. After receiving the notice the defendant failed to produce security to the suit amount and filed his counter on 28.01.2025. As per the averments pleaded in the counter the defendant denied the execution of pronote and further denied about the alienation of the property mentioned in I.A.No. 1/2024.

iv) Then, On 24.04.2025 the plaintiff filed an application U/sec 52 of Transfer of property act in I.A.No. 1/2024 and asked a relief to pass an order that the alienation of the suit property made by the defendant is a fraudulent one. As per the averments in the affidavit filed along with the petition in Sec 52 of Transfer of property act, the plaintiff filed the suit and the attachment before judgement petition was taken on file on 13.09.2024 and the 6A notice was served to the defendant on 05.11.2024. On 05.11.2024 the respondent was present in open court and this court directed the defendant to produce security for the suit amount. After, knowing all the facts the defendant with an intention to defraud the plaintiff without any consideration, on 13.11.2024 sold the petition mentioned property to the second defendant.

v) Though the plaintiff filed the application under section 52 of Transfer property Act to order the sale deed executed by the first defendant in favour of the proposed party as a fraudulent one. But the plaintiff failed to add the proposed party as party to the suit and in I.A.No. 2/2025. So, in this circumstances now the plaintiff come forward with this application to add the proposed party as a necessary party to the suit and in I.A.No. 2/2025.

vi) The proposed party by way of counter and by way of written arguments has submitted that the proposed party is a bonafide purchaser without knowing the pendency of the suit and the pendency of attachment

before judgement petition. After verification of the encumbrance certificate, the proposed party came to know there is no encumbrance over the suit property. So, she purchased the same for a valuable consideration and submitted as a bonafide purchaser she is not a proper and necessary party to the suit and in I.A.No. 2/2025.

vii) On, perusal of records the plaintiff produced the certified copy of the sale deed executed by the defendant in favour of the proposed party. On perusal of the same this court came to know the sale deed was executed on 13.11.2024 and the defendant alienated the said property for a consideration of Rs. 4,00,000/-. But as per records the suit was filed on 06.09.2024 and the attachment before judgement was taken on file on 13.09.2024 and notice was issued to the respondent for the hearing on 05.11.2024. After, receiving the notice on 05.11.2024 the defendant appeared in person in I.A.No. 1/2024 and as per the orders passed by this court he failed to produce security to the suit amount till 28.01.2025 but the defendant filed a counter on that date. On, perusal of the counter filed by the defendant there is no whisper about the alienation of the petition mentioned property.

viii) So, in this circumstances as per the discussions made above whether the proposed party is a bonafide purchaser or not and the defendant has willfully sold the property to the proposed party in order to cheat and defraud the plaintiff cannot be decided by way of this petition. All the above facts can be decided only after considering the evidence and documents produced by both parties in suit. So, in this circumstances this court hereby comes to a conclusion since the proposed party purchased the petition mentioned party from the defendant during the pendency of suit and so she is a lispendence purchaser. The judgment passed by this court will bind the sale deed executed by the defendant. So, in this circumstances this court hereby comes to a conclusion in order to

avoid multiplicity of the suit and in order to arrive a fair justice the proposed party is a necessary party to the suit.

ix) Hence as per the discussions made above in the interest of justice and in order to arrive fair justice and in order to avoid the multiplicity of proceedings this court is inclined to allow this petition and held the proposed party is a proper and necessary party to the suit as per the pleadings in the petition.

In the result, this petition is allowed. No cost

Dictated to the Steno-Typist, typed by him directly into the computer, corrected, printed out and pronounced by me in the Open Court on this the **4th day of December 2025.**

Additional Subordinate Judge,
Tiruppur.

I. Petitioner and Respondent's side Evidences and Documents : Nil

Additional Subordinate Judge,
Tiruppur.

Fair/Draft order
I.A.No. 4/2025
O.S. No.294/2024
Date : 04.12.2025.
ASJ Court, Tiruppur

IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUPPUR

Present :- Thiru. K.R.Kannan,B.A., B.L.,
(JO.Code TN01220)
Additional Subordinate Judge,
Tiruppur.

Thursday 04th day of December 2025

I.A. No. 4 / 2025

in

O.S.No. 294/ 2024

S. Chandrasekar, S/o. Selvaraj, residing at No. 82, Bharathi Nagar, 4th street,
Chandrapuram North, Tiruppur – 641606.

...Petitioner/ Plaintiff

//Vs//

1. Mrs. R. Saleena, W/o. Mr. Raju, aged about 49 years, residing at D.No. 13B,
Aswin House, Chotta medu, Amman Nagar, Vallipuram, Tiruppur – 638103.
2. Mrs. Preethi, W/o. Rathinam, aged about 45 years, residing at D.No. 5/884,
Raja Nagar 2nd street, Boyampalayam Pirivu, Pooluvapatti, Tiruppur North
Taluk, Tiruppur – 641602.

..... Respondents / Proposed party

The Petitioner, who is the plaintiff filed this petition Under order I Rule 10(2) and Section 151 of CPC to implead the proposed party as necessary party to the suit as per the reasons stated in the affidavit.

Date of filing of the petition: 25.06.2025.

This Petition came before me on 30.10.2025 for the final hearing in the presence of Mrs. S. Nandhini., B.C.A., L.L.B., Advocate for the Petitioner/ Plaintiff, Mr. V. Sajith., B.A. B.L., Advocate for Respondent No. 1 and Thiru. P. Subramanian., B.A., B.L., Advocate for the 2nd respondent/ Proposed party and upon hearing both side arguments, and on perusal of available records, this court delivered the following...

// FINAL ORDER //

1. the petition be and the same is hereby allowed;
2. that there be no order as to cost.

Given under my hand and seal of this Court, this the 04th day of December 2025.

Additional Subordinate Judge,
Tiruppur.

Final order
I.A.No. 4/2025
O.S. No.294/2024
Date : 04.12.2025.
ASJ Court, Tiruppur
