

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS
JUDGE, THANJAVUR.**

**Present :Thiru.P. Nagarajan, M.A.M.L.,
II Additional District & Sessions Judge, Thanjavur.**

**Wednesday the 18th day of March 2026
(Thiruvalluvar Andu 2057 - Panguni Matham 4th day)**

**I.A.No.8-2026 in ORIGINAL SUIT No:123/2025
CNR No.TNTJ1010356 2023**

K.Anwardeen

.....Petitioner/Plaintiff

Vs.

- 1) S. Mohamed Rafi
- 2) S. Mohamed Iqbal
- 3) S.Madina Munavara
- 4) M.Salmakani
- 5) M.Sulthana Mahudiya
- 6) Safinisha Begum
- 7) Mallika John
- 8) Karen Tajudeen
- 9) James Anwar

.....Respondent/Defendants

This petition having come up for final hearing before me on 13.03.2026 in the presence of **Thiru. S.Jeyachandran**, Advocate for the Petitioner/plaintiff and of **Thiru.P.Lenin**, Advocate for the Respondents/Defendants 1 and 2 and of **Thiru.P.L.Jeyahari**, Advocate for

the 4 and 5 respondents and respondents 3, 6, 7 remained exparte and summon not served to respondent 8 and 9 and upon hearing the arguments of both sides and the matter having stood over for consideration till this date, this court delivered the following

ORDER

The petitioner/plaintiff filed this petition under order 40 Rule 1 of CPC to pass an order to appoint a receiver to take charge of the petition mentioned property (Schedule 'A' of the Plaint) with power to collect rent from tenants, manage the suit properties and perform such other duties as this court deems necessary until the final adjudication of the suit and to direct the receiver to submit periodic accounts of the income and expenses related to the suit properties before this court.

2) The Gist of the petition filed by the petitioner:

The petitioner is the plaintiff in the original suit and the suit for partition claiming 1/5 share of 'A' schedule ¼ share in the 'B' schedule and ½ share in the 'C' schedule properties. The petition mentioned property is the 'A' schedule property in the suit. The petition mentioned property is the 'A' schedule property in the suit. It was jointly purchased by the petitioner along with his three brothers and sister as a vacant site through the registered sale deed dated on 22.03.1977 and 24.03.1977. Subsequently, they build a super structure thereon for the use of Hospital, jointly constitutes a partnership Firm in the name of "P.K.Clinic". All the other 4 sharers are no more, their legal heirs are the respondent herein. In the 'A' schedule properties,

there are 9 shops are constructed and they are in occupation of various tenants for commercial purpose. One of the Co-Sharer K.Shurbdeen managed the affairs on behalf of rest of Co-Sharers, he used to enter into the tenancy agreement with the tenants, collected advances and rents from them. They are acting deliberately against the interest of shareholders and unlawfully indulging the act of threatening and cause damages to the property. The petitioner already sent a letter to the tenants on 30.03.2025. None of the tenants complied the petitioner demand and even not chosen to issue any reply. The petitioner reasonably learnt that each of the tenant has paid Rs.5,00,000/- as an advance and making payment of Rs.25,000/- rent per month. The monthly rental income is Rs.2,00,000/- apart from that the interest in the advance amount will be nearly Rs.6,00,000/- per year. On the other hand, they are participating in the other suit filed by the Plaintiff for Dissolution of partnership firm which is pending on the files of Additional Subordinate Judge, Thanjavur in O.S.No.110/2025. The respondent 1 to 3 are continuously to receive the rent from the tenant from petition mentioned property which ultimately cause a loss from other sharers. So far, they collected rent more than Rs.1 crore from the tenants. The law of tenancy mandates every tenant must make a written agreement, it so requires to protect the interest of landlord. No such tenant under 'A' Schedule property follows such mandatory tenancy agreement.

3) The Crux of the counter filed by the respondents 1 and 2/defendants 1 and 2:

The respondents deny all the allegations of the petition to appoint the Receiver

to take charge of the suit properties as false, frivolous and vexatious. The petition is not maintainable either in law or on facts and is liable to be dismissed in limine. These respondents' father Sharbudeen was an absolute owner of the suit property and he has purchased the petition mentioned properties site for due consideration under 3 registered sale deeds dated 22.03.1977, 24.03.1977 and 24.03.1977 from R.Durairaj, Muthu Rethina Solagar and Nepholian Roche respectively. The petition mentioned properties site was purchased for the benefit of these respondents' father Sherbudeen alone and it was treated as the property of these respondents' father. Even though the entire sale considerations were paid by these respondents' father Sherbudeen, some of the payments of these respondents' father Sherbudeen were incorporated in the sale deed itself. These respondents' father Sherbudeen has clubbed the 3 bits of lands together and had been enjoying the same as an absolute owner. These respondents' father Sherbudeen had constructed hospital buildings out of his own effort and money. These respondents' father has been running a hospital in the petition mentioned properties site under the name and style of P.K.Hospital since 1994 to till his lifetime. The respondents 1 and 2 and their father are non medical personals and they are unable to compete with other hospitals run by the doctors and medical personals. These respondents have collected rent for more than Rs.1 Crore from the tenant is not correct and imaginary. The petitioner and other respondents are not the co-sharers of the petition mentioned properties much less petition mentioned buildings and shops. There is no valid grounds to appoint receiver and prayed to

dismiss this petition.

4) Point for consideration:

Whether the petition filed by the petitioner under order 40 Rule 1 of CPC is to be allowed or not?

5) Point:

The learned counsel for the petitioner/plaintiff submitted that the original suit was filed in the year 2025. The present application is filed to appoint the receiver to the item No.1 to 3 property to collect the rent and maintain the clinic in the A schedule property as a partnership firm. The respondents/defendants are not the partners in the partnership firm. But the legal heirs of the deceased partners, now receiving the rent without any account or partial payment to the petitioner/plaintiff and prayed before this court to appoint Advocate Receiver collect the rent from the tenant and to manage the suit properties and performs such other duties and to periodical accounts.

6) Per contra, the respondents submitted that it is not maintainable there is a oral hiba . The respondent also joint owners of the property. Appointment of Advocate Receiver is not maintainable. Hence prayed for dismiss the petition.

7) From the perusal it was found that admittedly in the A schedule property there are established rent portion for shops. Hence the

petitioner/plaintiff filed this receiver application.

8) On perusal it is found that the respondents prayed to dismiss the application on the ground that the respondents are entitled the property by way of oral hiba. Now the present petitioner is partner of the property. The original suit was filed for partition. Right of the petitioner/plaintiff was not denied by the respondents. But the respondents/defendants contended that there is no partnership for PK Clinic Whether there is a partner ship or the shops are given to tenants for rent are all accepted.

9) From the available pleadings of both side it is clear that admittedly there is rent and shops of 9 number and one number of PK clinic based upon partner ship firm. The partners in the firm except the petitioner already based away the only partner available is the petitioner. The other respondents are legal heirs of the deceased partners and claiming oral hiba. Admittedly the shops will yield rent for every month. For the pending suit filed already the rent should be properly collected and account be found to the court and for purpose also to collect the rent and for account. It is just and necessary to appoint a proper person as the Receiver to collect the rent and manage the property. Therefore the appointment of Advocate Receiver is necessitate to this matter. Hence this point is answered accordingly.

In final, this petition is allowed. Mr. Ramamoorthi, Advocate

appointed as a Advocate Receiver. He is to collect rent from the shop and the PK clinic and to account to the same to the court and also ordered to maintain the property. Monthly remuneration is fixed for Advocate Receiver is for Rs.5,000/-

Pronounced by me in the open court, this the **18th day of March 2026.**

**II Additional District and Sessions Judge,
Thanjavur.**

Petitioner and Respondents side

evidence and documents - Nil

**II Additional District and Sessions Judge,
Thanjavur.**

ORDER in

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O.S. No.123/2025

Dated: 17.03.2026