

**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.**

**Tuesday the 04th day of November 2025
(Thiruvalluvar Andu 2056 -Iyppasi Matham 18th day)**

I.A. No. 3/2025 in O.S. No. 331/2024

S.Manokar S/o.Subramanian

.....Petitioner/Plaintiff

/Vs/

(1) Baskar

(2) S.Sekar

(3) N.Padmavathi@ Padma

(4) K.Maheswari

.....Respondents/Defendants

This petition having come up for final hearing before me on **18.09.2025** in the presence of **Thiru.A.Luye Frank Antony Raj**, Advocate for the Petitioner and of **Thiru.R.Ilayaraja**, Advocate for the respondent R1/defendant 1 and of **Thiru.U.Umamaheswaran**, Advocate for the respondents 2 to 4/defendants 2 to 4 and upon hearing the arguments of both sides, upon perusal of the entire material records , this court passed the following

ORDER

This petition has been filed under Order 1 Rule 10 of CPC to implead the proposed parties in the original suit.

(2) Gist of the Affidavit is as follows:

The petitioner contended that his mother Sethu Ammal filed the suit for partition against the respondents in the original suit. The said Sethu ammal died on 13.04.2025 and leaving the petitioner and his sister as their legal heirs. As such they

have to be necessarily implead as legal representative to contest the case. The other legal heirs are already made parties to the suit. Unless this application is allowed the petitioners will be put to heavy loss. There will be no prejudice to the other side and thus prayed to allow this petition.

(3) Crux of Counter filed by the respondents 1 & 3:

The deceased plaintiff Sethu Ammal filed the original suit seeking reliefs of partition of the suit properties and subsequently she died on 13.04.2025, but it is nowhere in the I.A petitions stated that whether the deceased Sethu Ammal died intestate or not. The said Sethu Ammal filed the said suit seeking partition of properties of her son late. Maheshwaran. This respondent is the legally wedded wife of the said Maheshwaran and through the said wedlock the 2nd defendant was born and subsequently the said Maheshwaran had lived with one Nisha @ Bahathoornisha Begum and through her the said Maheshwaran had the 3rd and 4th defendants as his sons. The said Maheshwaran was died intestate on 10.05.2022 and as per the provisions of Hindu Succession Act the mother as one of the Class-I legal heir entitled to share in the estate of the deceased Maheshwaran along with the defendants 1 to 4. The legal heirs of deceased Sethu Ammal had no manner of right over the estate of the deceased Maheshwaran when his Class-I Legal heirs are available viz., the defendants 1 to 4. The petitioner/proposed parties are not at all legal heirs to the deceased Maheshwaran and they have no right to seek any relief in the suit. The I.A is devoid of merits besides being ill advice misconceived and motivated and thus prayed to dismiss this petition.

(4) Point for consideration:

Whether the petitioner is entitled to the relief sought for?

(5)Point:

The petitioner has filed this petition to implead himself as well as his sister Umadevi as legal heirs of deceased plaintiff Sethu Ammal. The said Sethu Ammal has filed the main suit for the relief of partition in respect of the estate of his deceased son Maheshwaran. Since during the pendency of the said suit the plaintiff Sethu Ammal died the petitioners sought to implead themselves as plaintiffs as they are the legal heirs of the deceased Sethu Ammal. The respondents opposed this petition mainly on the ground that since the defendants who are Class-I heirs of deceased Maheshwaran are available the petitioners who are Class-II heirs in respect of deceased cannot have any share in the presence of Class-I heirs and therefore, the petitioners cannot continue the suit in the place of Sethu Ammal and thus prayed to dismiss this application. The main suit for partition has been filed by the Sethu Ammal during her lifetime itself and therefore cause of action has arisen and since she is having legal heirs to inherit her estate the said cause of action still subsists. Therefore the contention of the respondent that Class-I heirs exclude the petitioners and petitioners being Class-II heirs of the deceased Maheshwaran cannot claim right over his property and therefore they cannot be impleaded cannot be countenance, since the petitioners have not filed the suit in their personal capacity and they sought to implead themselves as legal heirs of the deceased Sethu Ammal who is admittedly the Class-I heirs and entitled to a share in the estate of deceased Maheshwaran. Further at present the entitlement of

the petitioner for the share over the suit property cannot be decided and the same can be decided after trial. Therefore, this court is inclined to allow this application as prayed for.

In the result this petition is allowed. Parties are directed to bear their own costs.

Dictated to the Steno-Typist, transcribed by her in computer, corrected and pronounced by me in the open court, this the **04th day of November 2025**.

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

Petitioner and Respondents side

Exhibits and Witnesses : Nil

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

Order

IA.3/2025 in O.S.No.331/2024

Dated: 04.11.2025