

IN THE COURT OF THE FIRST ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.

PRESENT: Thiru. D. SELVAM, M.L.
1st Additional District Judge,
Tirunelveli.

Wednesday, the 11th day of February 2026

I.A. No. 04/2025 in O.S. No. 73/2024

1. Shanmugam

2. Latha

...Petitioners/1st and 2nd defendants

// Versus //

1. Dhanaratha

2. Sri Amutha

(1st respondent for herself and
through the Power Agent of the 2nd respondent) ... Respondents/Plaintiffs

3. Jegadheesan

4. Vijayalakshmi

5. Radhakrishnan

6. Subriya Babu

...Respondents/3rd to 6th defendants

This petition came up before this court on 30.01.2026 for a final hearing in the presence of Thiru. N. Shamugasundaram, Advocate for the Petitioners and Thiru. S. Chandrasekar, Advocate for the 1st and 2nd Respondent and Thiru. S. Rajaram, Advocate for the 3rd Respondent and Thiru. M. Krishnan, Advocate for the 5th Respondent and Thiru. Thangamuthu Arumugam, Advocate for the 4th Respondent called absent, set exparte and the 6th respondent already set exparte, and upon hearing both sides' arguments and upon perusing the records and having stood over till this date for consideration, this court delivers the following ...

ORDER

1. This petition has been filed by the Petitioner under Order 1 Rule 10(2) and Section 151 of the C.P.C to exonerate the Petitioners in the original suit with costs.

2. The brief averments of the petition are as follows:-

The petitioner is the 2nd defendant in the suit. The 1st petitioner is the father of the 2nd petitioner. He was well known for the case details. The respondent/Plaintiff has filed the suit for partition with the to declare the settlement document No. 11119/2023, dated 29.08.2023, executed by the 3rd respondent in favour of the 6th respondent, as invalid. The written statement was filed on behalf of the petitioners in the suit. The 1st and 2nd defendants/petitioners did not claim any share in the schedule property. Therefore, the petitioners are unnecessary parties to the case, and therefore, the petitioners are requested to be exonerated from the suit. Hence, this petition is filed.

3. The brief averments of the counter filed by the respondent are as follows:-

The petition is not maintainable either in law or on the facts. The respondent denied the averments contained in the affidavit except for the admitted facts. The original suit was filed for partition of the schedule properties stands in the name of Mrs. Subbulakshmi. Mrs. Subbulakshmi had three sons, who are the 3rd and 5th respondents in this petition. The 1st and 2nd respondents/plaintiffs, who are the legal heirs of deceased son Sankar, son of Mrs. Subbulakshmi. The petitioners are the legal heirs of the deceased Parvathi, who is the elder daughter of Mrs. Subbulakshmi. The petitioners' mother had received some properties from her father Mr. Alagu

Sundaram. So, the petitioners filed the petition only to drag the case. Hence, this petition may be dismissed with costs.

4. The Point for determination in the petition is:

Whether the petition can be allowed?

5. During the enquiry, no evidence was adduced and no documents were marked on both sides.

6. Answer to the Point: -

(i) Heard both sides. This court carefully perused the affidavit, counter, and case records.

(ii) As per the records, the suit is filed for partition of the properties of Mrs. Subbulakshmi. The petitioners are the legal heirs of Parvathi, who is the elder daughter of Mrs. Subbulakshmi. As per the settled principles, the legal heirs of the deceased or the property owners' legal heirs are necessary parties in the partition litigation. But the petitioners did not want the share from the partition, and they wanted to be exonerated from this case.

(iii) In these circumstances, this court considers that the petitioners did not want any share of this case and filed the detailed written statement before this court. Even though the plaintiffs are the dominant litigants in the suit, the defendants have equal rights in the partition suit. In this circumstance, the petitioners did not want any share from the partition suit and did not want to continue the case. At this stage, if the

petitioners are exonerated, the litigation will not affect the final decision of the partition case, since the necessary party's objection is already recorded through his written statement. Further, this court would like to decide the case on the merits. So, this court would like to allow this petition by the interest of justice.

7. In the result, this petition is allowed. This court directs the respondents/plaintiffs to carry out the amendment only by the word of “exonerated” as per the order of this court. To carry out the amendment, the amended plaint copy is to be filed within 2 weeks. No costs.

Dictated to the steno-typist, and directly typed by her on the computer, corrected, and pronounced by me in open court on this, the 11th day of February 2026.

1st Additional District Judge,
Tirunelveli.

The petitioners’ side witnesses and documents: Nil

The respondents’ side witnesses and documents: Nil

1st Additional District Judge,
Tirunelveli.

I Additional District Court,
Tirunelveli

DRAFT / FAIR ORDER

IA No.04/2025 in

OS No.73/2024

Dated: 11.02.2026