

IN THE COURT OF THE DISTRICT MUNSIF, ARNI.

PRESENT: Miss. D.V.Koperundevi,B.com.,L.L.B.,(Hons)

DISTRICT MUNSIF,

DISTRICT MUNSIF COURT, ARNI.

TUESDAY the 8th day of July 2025.

I.A. No. 1/2025 in O.S. No. 299/1989.

1.Elumalai

2.Govindasamy

... Petitioners/Plaintiffs

/Vs/

1.Lakshmi Ammal (died)

2.Valliammal (died)

3.Chandrakesan (died)

4.Unnamalai Ammal

...Respondents/Defendants

5.K.Manonmani

...Proposed 5th Defendant

This petition came up before me for final hearing on 17.06.2025 in the presence of Advocate Thiru.M.Sivakumaran, for the Petitioners/Plaintiffs and Advocate Thiru.A.Babu, for the Proposed 5th Defendant, and upon hearing the both sides enquiry and perusing the material records of this petition and having stood over for consideration till this day, this court delivers the following: -

ORDER

The petitioner filed this petition under Order I Rule 10 and Sec. 151 of Code Civil Procedure 1908.

I. The gist of the averments in the petition filed by the 2nd petitioner:

1. In the affidavit, the petitioner herein is the 2nd Plaintiff in the above suit. The petitioner filed this affidavit on behalf of the 1st petitioner also. The plaint filed by the plaintiffs may be read as a part and parcel of this affidavit.

2. The petitioner submit that in the above case, the petitioner have filed appeal A.S. No.60/1999 on the filed of Sub-Judge, Arni against the respondents 2 to 4. Since the 1st respondent Lakshmi died even prior to the filing of the said appeal, she was not impleaded as party in the said appeal.
3. The petitioner submit that the said appeal was pending in Sub-Court, Arni. During the pendency of the appeal the respondents2 to 4 died one after the other. Lastly, Chandrakesan, the 3rd respondent died on 15.07.2023. After coming to know of the same, the petitioner have filed an appeal. It is because that the 3rd respondent Chandrakesan sold the disputed property to the 5th respondent herein by a registered sale deed dated 31.05.2023. Hence, the 5th respondent herein was impleaded as praty to the said appeal. The said petition was allowed and thereafter only the said appeal A.S. No.60/1999 was disposed by Hon'ble Sub Judge, Arni. For the 4threspondent Chandrakesan there are no legal, heirs. He died issueless.
4. The petitioner submit that the said Appeal A.S. No.60/1999 was remanded to this Hon'ble Court with a direction to dispose of the suit after considering the additional evidence and documents by both the parties.
5. The petitioner submit that since this suit has been remanded to this Hon'ble Court, it has become necessary to implead the legal representative of the deceased 3rd respondent. The 5th respondent is the sole person and sole legal representative of the deceased 3rd respondent with regard to the suit properties. Hence,the petitioner filing this application to implead the 5th respondent is the sole person and sole legal representative of the deceased 3rd respondent with regard to the suit properties. Hence, the petitioner filing this application to implead the 5th respondent as party to the above suit. Fruther, there are no legal heirs for the deceased 3rd respondent.

6. The petitioner submit that, during the pendency of the above appeal A.S. No.60/1999, the 2nd respondent Valliyammal died on 02.10.2002 and the 4th respondent Unnamalai died in the year 2019. Both of them have no children. The 3rd respondent Chandrakesan alone was a sole legal heir of the respondents 2 and 4. Accordingly, the grounds of appeal was allowed.
7. The petitioner submits that in the interst of justice and fairness, this application has to be allowed. Otherwise, the petitioner will be put to serious loss and hardship.
8. It is thererfore just and necessary that the 5th respondent herein may by impleaded as party to the above suit as she is representing the estate of the deceased 3rd respondent and arraign her as 5th respondent in the above suit under the circumstances.

II. The gist of the averments in the counter filed by the 5th respondent:

1. The petition filed by the Petitioner is neither legally sustainable nor equitable and is liable to be dismissed with costs. Except for the facts specifically admitted in this counter affidavit, all other averments contained in the Petitioner's affidavit are expressly denied, and the burden of strict proof lies upon the Petitioner.
2. In the petition, all the four respondents are deceased, the 5th respondent purchased the property from the 3rd respondent on 31.05.2023 after checking the encumbrance. As there were no encumbrances, the respondent purchased the property with faith. The property purchased by the respondent is not subject to any stay orders or attachment orders from the court. All these matters are properly inspected by the Sub-Registrar Office and verified for encumbrance, the deceased 3rd respondent Chandrakesan, acquired the property by a proper consideration of Rupees One Lakh Sixty Thousand Two Hundred which was duly registered at the Sub- Registrars' Office under Document No. 2770/2023. The petition in which the 5th respondent is to be impleaded as respondent, is

liable to be dismissed, as the original suit No.299/1986 has been remanded from the High Court, and has been re-initiated, and the parties to the suit should not proceed without proper representation. The intention to implead the 5th respondent as a party in the said petition, is liable to be dismissed.

3. The respondent submits that, the deceased 3rd respondent's property is not an ancestral property, and the respondent purchased the property from the 3rd respondent while he was in good health. Therefore, the 5th respondent prays this court to accept his counter statement and dismiss the petition with costs.

III. Points for consideration:

1. Whether the petition filed under Order 1 Rule 10 under Sec. 151 is to be allowed or not?

IV. Points:

Heard on both sides. Records have been perused.

1. From the records it is evident that the Petitioner has filed the suit against the Respondents No. 1 to 4. The suit is remanded from Hon'ble Sub-ordinate Court, at this stage the Petitioner has come forward by way of this petition to implead the proposed parties has 5th Defendant in the suit.
2. The petitioner has contended that the 3rd Defendant already arrayed in the plaint they have agitated that the non-impleading all the legal representatives of deceased Chandrakesan would cause the suit in dismissal. Hence, to avoid the multiplicity proceedings the above said proposed Respondents/the proposed 5th defendant are necessarily to be impleaded as 5th defendant in the above suit. Otherwise, he will be put to great loss and hardship. Hence, the Petitioner prayed to implead the proposed 5th Respondent as the 5th defendant in the suit.
3. Per contra, the 5th Respondent has contended that, in the suit the respondent 1 to 4 were died. Further, there is no other person to contest the case. Hence, the petitioner filed this petition to implead the 5th respondent as 5th defendant in the

above suit.

4. The Petitioner has filed this petition only to drag on the proceedings and also to restrain the enjoyment of the 5th Respondent in suit property. Hence, the petition is liable to be dismissed.
5. On perusal of records, the Petitioner has filed the suit for Declaration and Mandatory Injunction with regard to suit property as against the Respondents 1 to 4.
6. The proposed petitioners are the legal representative of 3rd respondent Chandrakesan. In order to complete adjudication with regard to the dispute arise between the Petitioner and Respondents, the proposed party are necessary party in the suit property. Considering the facts and circumstances of this case in order to give proper adjudication, this court is inclined to allow this petition.

V. Result:

In fine, the petition under Order 1 Rule 10 and Sec.151 is allowed and no costs.

Dictated to Steno Typist, and computerized by her directly, corrected and pronounced by me in the open Court, on the 8th day of July 2025.

**District Munsif
Arni**

List of documents & witnesses : N I L

**District Munsif
Arni**