

**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 8<sup>th</sup> 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 (died)

...Respondents/Defendants

5.K.Manonmani

...Proposed 5<sup>th</sup> 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 5<sup>th</sup> 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 2<sup>nd</sup> petitioner:**

1. In the affidavit, the petitioner herein is the 2<sup>nd</sup> Plaintiff in the above suit. The petitioner filed this affidavit on behalf of the 1<sup>st</sup> 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 1<sup>st</sup> 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 respondents 2 to 4 died one after the other. Lastly, Chandrakesan, the 3<sup>rd</sup> respondent died on 15.07.2023. After coming to know of the same, the petitioner have filed an appeal. It is because that the 3<sup>rd</sup> respondent Chandrakesan sold the disputed property to the 5<sup>th</sup> respondent herein by a registered sale deed dated 31.05.2023. Hence, the 5<sup>th</sup> respondent herein was impleaded as party 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 4<sup>th</sup> respondent 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 3<sup>rd</sup> respondent. The 5<sup>th</sup> respondent is the sole person and sole legal representative of the deceased 3<sup>rd</sup> respondent with regard to the suit properties. Hence, the petitioner filing this application to implead the 5<sup>th</sup> respondent is the sole person and sole legal representative of the deceased 3<sup>rd</sup> respondent with regard to the suit properties. Hence, the petitioner filing this application to implead the 5<sup>th</sup> respondent as party to the above suit. Further, there are no legal heirs for the deceased 3<sup>rd</sup> respondent.

6. The petitioner submit that, during the pendency of the above appeal A.S. No.60/1999, the 2<sup>nd</sup> respondent Valliyammal died on 02.10.2002 and the 4<sup>th</sup> respondent Unnamalai died in the year 2019. Both of them have no children. The 3<sup>rd</sup> 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 5<sup>th</sup> respondent herein may by impleaded as party to the above suit as she is representing the estate of the deceased 3<sup>rd</sup> respondent and arraign her as 5<sup>th</sup> respondent in the above suit under the circumstances.

**II. The gist of the averments in the counter filed by the 5<sup>th</sup> 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 5<sup>th</sup> respondent purchased the property from the 3<sup>rd</sup> 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 3<sup>rd</sup> 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 5<sup>th</sup> 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 5<sup>th</sup> respondent as a party in the said petition, is liable to be dismissed.

3. The respondent submits that, the deceased 3<sup>rd</sup> respondent's property is not an ancestral property, and the respondent purchased the property from the 3<sup>rd</sup> respondent while he was in good health. Therefore, the 5<sup>th</sup> 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 5<sup>th</sup> Defendant in the suit.
2. The petitioner has contended that the 3<sup>rd</sup> 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 5<sup>th</sup> defendant are necessarily to be impleaded as 5<sup>th</sup> defendant in the above suit. Otherwise, he will be put to great loss and hardship. Hence, the Petitioner prayed to implead the proposed 5<sup>th</sup> Respondent as the 5<sup>th</sup> defendant in the suit.
3. Per contra, the 5<sup>th</sup> 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 5<sup>th</sup> respondent as 5<sup>th</sup> 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 5<sup>th</sup> 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 3<sup>rd</sup> 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 8<sup>th</sup> day of July 2025.

Digitally signed  
by  
KOPERUNDEVI  
D V  
Date:  
2025.07.08  
15:27:31 +0530  
**District Munsif**  
**Arni**

**List of documents & witnesses : NIL**

Digitally signed  
by  
KOPERUNDEVI  
D V  
Date:  
2025.07.08  
15:27:58 +0530  
**District Munsif**  
**Arni**