

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, CHEYYAR**

**THIRUVANNAMALAI DISTRICT**

Present :- **Tmt. K. Naleeni., M.L.,**  
Principal District Munsif, Cheyyar,  
Thiruvannamalai.

**Wednesday, the 26<sup>th</sup> day of November, 2025**

**I.A . 4/2025 in O.S.No. 60/2024**

Rahman

**.....Petitioner/Proposed 4<sup>th</sup> Defendant**

**V.**

1. R. Balakrishnan

**.....1<sup>st</sup> Respondent/Plaintiff**

2. M. Murugan

3. The Tahsildar, Cheyyar

4. The District Collector, Tiruvannamalai.

**... 2-4 Respondents/Defendants**

This petition is coming before me on 17.11.2025 for final hearing in the presence of Thiru. N. Gunasekaran, Learned Advocate for the Petitioner/proposed 4<sup>th</sup> Defendant and 2<sup>nd</sup> Respondent/Defendant and Ms. G. Selvi, Learned Advocate for the R1/plaintiff and Learned Government Pleader Mr. Chanbasha for 3<sup>rd</sup> and 4<sup>th</sup> Respondents and upon hearing both sides and after careful perusal of the entire case records and having stood over for consideration till this day, this Court delivered the following:

**ORDER**

This Petition has been filed by the Petitioner under Order I Rule 10 (2) of Code of Civil Procedure, 1908 to implead him as 4<sup>th</sup> Defendant in the above suit in OS 60 of 2024.

**2. BRIEF AVERMENTS OF THE PETITION AS FOLLOWS:**

- i. The petitioner states that the 1<sup>st</sup> respondent/plaintiff has filed the original suit before this Hon'ble Court in respect of a pathway situated to the north of house site Nos. 18 and 19, which form part of the house site subdivisions in Survey No. 82/5E of Kodanagar Village. He further states that below these house site subdivisions lie Survey Nos. 82, 85, and 105, which are lands. Out of these, the petitioner purchased an extent of 0.23 cents in Survey No. 105/2 under a registered sale deed dated 14.07.2021 and that the new town survey number for this property is Ward E, Block No. 27, Town Survey No. 2/7. Similarly, the petitioner purchased 0.32 cents in Survey No. 85/1 under a registered sale deed dated 16.11.2022 and the new town survey number for this property is Ward E, Block No. 27, Town Survey No. 2/6.
- ii. The petitioner further states that he has been in possession and enjoyment of the said lands from the respective dates of purchase and that to reach his lands, the petitioner has been using the pathway laid in the house site subdivisions of Survey No. 82/5E from the Kuzhandai Eswaran Street of Kodanagar. Likewise, the owners of other lands situated below Survey No. 82/5E have also been using the said pathway to reach their respective properties.
- iii. The petitioner further states that his vendors were also using the same pathway through Survey No. 82/5E from the Kodanagar Kuzhandai Eswaran Street to reach their lands. When the house site subdivision was formed in Survey No. 82/5E, the then landowners retained the existing pathway as part of the subdivision. The petitioner states that the purchasers of the plots in the said subdivision had never objected to or prevented the petitioner from using the pathway to access his lands.

Furthermore, the irrigation channel situated below the said house site area has been dry and unused for several years.

- iv. The petitioner states that he has been using the pathway laid through the said house site area and passing over the dried irrigation channel to reach his lands. Similarly, other nearby landowners have also been using the same route. The 1<sup>st</sup> respondent/plaintiff has purchased house sites bearing Nos. 13 to 19 in the said subdivision and has constructed a marriage hall on sites 13 to 17 and a sawmill on sites 18 and 19, and has been in enjoyment thereof.
- v. The petitioner states that, prior to the filing of the present suit, the 1<sup>st</sup> respondent/plaintiff had never objected to or prevented the use of the northern pathway leading to the suit property. However, due to certain disputes that arose between the 1<sup>st</sup> and 2<sup>nd</sup> respondents (plaintiff and 1<sup>st</sup> defendant), the 1<sup>st</sup> respondent/plaintiff, with an intention to cause inconvenience to the 2<sup>nd</sup> respondent/1<sup>st</sup> defendant, attempted to block the northern pathway by placing obstacles. The 2<sup>nd</sup> respondent/1<sup>st</sup> defendant prevented such obstruction, and hence the 1<sup>st</sup> respondent/plaintiff has now filed the present suit. The petitioner came to know of this fact only recently.
- vi. The petitioner submits that if the 1<sup>st</sup> respondent/plaintiff obstructs the pathway laid in the said house site subdivision, the petitioner will be unable to access his own lands. Hence, it is both just and necessary that the petitioner be impleaded as the 4<sup>th</sup> defendant in this suit or otherwise, multiple litigations may arise, and the petitioner would be put to great hardship, delay, and irreparable loss in seeking legal remedies. Further, impleading the petitioner as the 4<sup>th</sup> defendant in this case would not cause any prejudice to the respondents. Hence, the present petition.

**3. BRIEF AVERMENTS OF THE COUNTER BY THE 1<sup>ST</sup> RESPONDENT AS FOLLOWS:**

- i. The Respondent deny all the allegations in the petition. The Respondent states that there has never been any separate pathway from the Kuzhandai Eswaran street and that the only access to the lands mentioned by the petitioner is through the field bunds from the main road.
- ii. The Respondent further states that no pathway existed or retained during the formation of the layout and that the pathway was created newly only when the layout was formed. He further states that the irrigation channel still exists, and rainwater continues to flow through it even now.
- iii. The Respondent admits that the 1st respondent/plaintiff has constructed a marriage hall and a sawmill in the plots he purchased. He further states that the petitioner has never used any dried-up irrigation channel or the pathway road in the plots of the petitioner to reach his lands.
- iv. The respondent further states that the claim of the petitioner that he will lose access to his lands if the 1<sup>st</sup> respondent/plaintiff closes the pathway as baseless and that there is no necessity for the 1<sup>st</sup> respondent/plaintiff to close any pathway. He further states that, there are existing access routes from the bypass road and the Eswaran street through the field bunds and that the petitioner, in collusion with the 1<sup>st</sup> defendant/2<sup>nd</sup> respondent, has fabricated this false petition to create a non-existent right of way.
- v. The respondent states that the petitioner and the 1<sup>st</sup> defendant have jointly attempted to illegally fill up a government irrigation channel and construct a road, which was prevented by the plaintiff. He further states that the access to the lands surrounding the suit properties have to be used only through the bund of the fields and that no one will form a public road there.

- vi. The respondent contends that the petitioner is not a necessary party to this suit and that the plaintiff has not made any allegations against him in the original suit. If this petition is allowed, it would encourage the 1<sup>st</sup> defendant to join several unnecessary parties and file similar false applications. He further states that since the 1<sup>st</sup> defendant is already contesting the case, the judgment in the suit will be binding on all parties concerned. Hence, he states that the present petition is not maintainable either in law or on facts and deserves to be dismissed.

**4. POINT FOR CONSIDERATION:**

The sole point to be considered by this Court is whether the proposed petitioner is to be impleaded as 4<sup>th</sup> defendant in OS. 60 of 2024?

**5. ORAL AND DOCUMENTARY EVIDENCE:**

Ex. P1 namely the Sale deed dated 14.07.2021 and Ex. P2 namely the Sale deed dated 16.11.2022 was marked on the side of the Petitioner. No oral or documentary evidence was adduced on the Respondent side.

**6. DETERMINATION:**

Heard both sides and carefully perused the records.

- i) This petition has been filed to implead the proposed person as 4<sup>th</sup> defendant in the suit. The main contention of the petitioner is that he has purchased certain lands situated below Survey No. 82/5E of Kodanagar Village and that to reach his lands, he has been using the pathway situated within the house site layout in Survey No. 82/5E, which is also the subject matter of the present suit. It is his case that if the said pathway is obstructed, he will be deprived of access to his

property and hence, his presence in the suit is necessary for an effective adjudication of the issues involved.

- ii) On the other hand, the respondent contends that the petitioner has no manner of right over the alleged pathway and that there is no existing right of way through the suit layout and that there is a separate access to the petitioner's lands through the field bund and that he has colluded with the 1<sup>st</sup> defendant to file this petition.
- iii) According to Order I Rule 10 (2) of the Code of Civil Procedure, 1908,

*“(2) Court may strike out or add parties.—The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to **be just**, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the **name of any person** who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be **necessary** in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”*

- iv) The suit has been filed by the 1<sup>st</sup> Respondent/plaintiff against the 2<sup>nd</sup> Respondent/defendant for permanent injunction restraining him from constructing any road as pathway without obtaining permission from the government in the suit property and also restraining him from using the said property as dead end.
- v) In the present case at hand, the sole contention of the plaintiff/respondent is that the suit property is not a pathway and not to be used as such. The petitioner herein contends that he has purchased lands to the south and to reach his lands, he has been using the said suit property as pathway which is the subject matter of the present suit and that if the same is obstructed, he would be deprived

of his right to access. In order to prove his contention, he has marked Ex. P1 Original Sale deed dated 14.07.2021 in survey number 105/2 and Ex.P2 Original Sale deed dated 16.11.2022 in survey number 85/1. On the perusal of the documents, it could be seen that the properties are situated in the plots where the suit property is situated. The suit relates to injunction restraining the 1<sup>st</sup> defendant from using the subject matter as pathway, and the petitioner on the other hand, claims that he is using the subject matter as pathway. The petitioner has established through Ex. P1 and P2, that he has interest over the subject matter of the suit and dispute between the plaintiff and the 1<sup>st</sup> defendant would also concern him. It could be seen that any order passed in the suit would also affect his rights. Further, in the interest of justice and also that no prejudice would be caused to the respondent herein and also to avoid multiplicity of proceedings, this court finds that the presence of the petitioner is just and necessary for complete and effective adjudication of the controversy involved in the suit.

- vi) In the light of the aforesaid discussions, this Court finds that the petitioner is a necessary party to the present suit and is inclined to allow this petition.

7. **RESULT :**

***In result, this petition is allowed. No order as to costs.***

Directly typed by me in the Laptop, formatted by the steno-typist, corrected and pronounced by me in open court, on this the 26<sup>th</sup> day of November, 2025.

**Principal District Munsif,  
Cheyyar.**

**8. List of Witnesses:**

On the side of the Petitioner : NIL

On the side of the Respondent : NIL

**9. List of Documents :**

On the side of the Petitioner :

<b>Sl. no</b>	<b>Exhibit</b>	<b>Date</b>	<b>Particulars of the Exhibits</b>	<b>Nature of the Exhibits</b>
1.	Ex. P1	14.07.2021	Sale deed	Certified Copy
2.	Ex. P2	16.11.2022	Sale deed	Certified Copy

On the side of the Respondent : NIL

**Principal District Munsif,  
Cheyyar.**