

**IN THE COURT OF DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,  
KILPENNATHUR.**

**Present: Thiru.M.C.Arun, L.L.B.,**  
District Munsif-cum-Judicial Magistrate, Kilpennathur.  
02<sup>nd</sup> day of January, 2026, Friday.  
IA.No. 01/2025

in

OS.No. 43/2025

Saleem

...Petitioner/Plaintiff

//VS//

1. Head of Jamath (Jamia Masjid)

Represented by Muthavali

Mr. M.K. Athavulla(died)

...Respondent/Defendant

2. Abdul Kabeer

...LRs of deceased Defendant/  
Proposed Defendant-2

This Petition is coming before me on 18.12.2025 for final hearing in the presence of Thiru. R. Mohan, learned counsel for the Petitioner/Plaintiff and Thiru. C. Gnanavelan, learned counsel of Respondent/Defendant and upon perusing the case records having stood over for consideration till this day, this Court delivers the following;

**ORDER**

The petitioner filed the petition under order 22 rule 4 of C.P.C and prayed before this court to implead one Abdhul Kabeer – New Muthavalli as proposed 2<sup>nd</sup> defendant in the suit.

**1. Crux of the Petition:**

The petitioner submits that he is the plaintiff in the suit and well acquainted with the facts of the case and further submits that he filed the suit for recovery of possession and mandatory injunction against the deceased 1<sup>st</sup> defendant died and

further submits pending suit, the defendant Athavulla died on 13.08.2025 and New Muthavalli (Head of Jamath) he succeeded by one Abdhul Kabeer, S/o. Kasimkhan and so the petitioner filed this petition to implead the said proposed party to conduct the case.

## **2. Crux of the counter:**

The respondent submits that this petition is not maintainable either in law or on facts and vexatious and the petition has prove the allegation mentioned in the petition strictly and further denied each and every allegation mentioned in the affidavit and the respondent submits that already the defendant filed the written statement along with 10 documents which may be treated as part and parcel. The respondent further submits that the petitioner purchased the suit property 30 years ago. Highways department widened the road and constructed a channel 5 years ago and thereafter the petition/Plaintiff begin creating an unnecessary issues by stating that a portion of land false with in the survey no. 288/29 and further the respondent submits that the Thaildar measured both survey no. 288/29 and 288/20 in the presence of both parties and it was clearly established that there was no portion of the disputed extent false with the survey no. 288/29 and respondents also possess valid and proper documents pertaining to the buriyal ground comprising survey no. 288/20 and further added the buriyal ground situated in survey no. 288/20 which does not belong to any individual and it is administratively according with law and the said buriyal ground is collected with the 8 persons but the petitioner has chooesn to file a present application against this respondent alone which is improper and justify and liable to rejected and prayed to file additional counter and further prayed dismiss the vexatious petition.

## **3. Points for consideration is whether the injunction can be granted against respondents:**

(3.1) Heard. Records perused. The counsel for the petitioner submits that the proposed defendant to be impleaded as a party for complete adjudication whereas, the

counsel for the respondent submits that there are 8 persons are administering the burial ground but the petition is filed to implead only this respondent and further added there is no connection of burial ground with the survey no. owned by the petitioner and further added that to dismiss the petition.

(3.2) This court observed the contention of both petitioner and respondent and it appears that the petitioner filed the suit for recovery of possession and mandatory injunction against the deceased respondent and further it is an admitted fact is that the 1<sup>st</sup> respondent died and this petitioner filed this petition to implead Abdul Kabeer as proposed party and it is the principle of dominus litus (Master of the suit) the plaintiff only can choose who is the opponent and further the petitioner even though, does not file any document authorizing that the proposed respondent is controlling and administering the burial ground. The petitioner chooses this respondent is a necessary party for the complete adjudication and so, this court is inclined to allow this petition.

4. **In the result**, this petition is allowed without cost.

Dictated to the Steno-Typist, directly typed and computerized by her, corrected and pronounced by me in the Open Court on this, the 02<sup>nd</sup> day of January, 2026.

District Munsif-cum-Judicial Magistrate,  
Kilpennathur.

Petitioner side Evidence	: Nil
Petitioner side Document	: Nil
Respondent side Evidence	: Nil
Respondent side Document	: Nil

District Munsif-cum-Judicial Magistrate,  
Kilpennathur.