

IN THE COURT OF PRINCIPAL DISTRICT JUDGE AT TIRUVALLUR

PRESENT: Tmt.J. JULIET PUSHPA, B.Sc, M.L.,

Principal District Judge, Tiruvallur

Friday, the 26th day of September, 2025

I.A.5/2025 IN O.S.NO.98/2012

1. Krishnaveni (a) Mallika
2. Amudha

....Petitioners/Plaintiffs

/Vs/

1. V. Saroja (died)
2. V. Asirvatham
3. Yesammal (died)
4. D. Haridoss
5. D. Manoharan
6. D. Ravi
7. D. Latchathi
8. P. Vignesh

...Respondents 1 to 8 / defendants

9. Kokila

...9th respondent / proposed 9th defendant

This petition coming on for final hearing on 17.09.2025 in the presence of M/s Athiveera Rama Pandian, S. Raghuman, R. Rajkumar, learned counsel for petitioners and M/s K. Easu, learned counsel for the respondents 2, 4 and 8 and having the defendants 1, 3 and 5 died, having the respondents 6 and 7 set exparte, and upon hearing both side, and perusing the material case records and stood over for consideration till this date, this Court delivered following:-

ORDER

This petition is filed by petitioners under Order 1 Rule 10(2) of C.P.C. praying to implead 9th respondent as 9th defendant in the original suit

2. **The averments in common the Petitions filed by the Petitioners are as follows:-**

According to the petitioners, they filed the original suit for partition of suit into 30 equal shares and allot 12/30th share to the plaintiffs and also declaration that the partition deed dated 05.05.2006, 09.05.2006 entered between defendants 1 to 4 , 5 to 7 as null and void. The proposed 9th defendant is the daughter of K. Dhanraj who is the brother of the plaintiff's father. However, she is not a party to the said partition deeds., Only due to inadvertence, their previous counsel not arrayed her as defendant in the suit at the time of filing the suit. The 9th respondent is the necessary party to the suit proceedings for proper adjudication of the case since she is the daughter of K. Dhanraj along with defendants 5 to 7 and as such, she has to be impleaded in the suit. Already 5 to 7 are set exparte and as such they have not arrayed as party in the petition. Unless an opportunity is accorded the case of petitioners would be prejudiced. Hence, prayed to implead the 9th respondent as 9th defendant in the suit.

3. **The averments in the counter filed by the respondents 2, 4 and 8 in brief :**

The respondents 2, 4 and 8 resisted the petition stating that the proposed 9th respondent is the legal heir of deceased K. Dhanraj. The reason for leaving the proposed defendant without impleading and filing this petition after 13 years is not substantiated with any reason and it is belated stage. The petitioners should have taken the steps at the earlier states. Even though the facts are well known the petitioners as proposed 9th defendant is a necessary party to the suit, there is no iota

truth in the reason for the delay. The proposed party's share of 0.15 cents in S.No.254/1A1A in Patta No.800 at Punnappakkam Village had already provided by her brothers 5 to 7 defendants according to partition made on 09.05.2006. Now, she is continuing in possession of the same which is well known to the petitioners., which they have suppressed. The surviving defendants 5 to 7 and their names in the partition suit are wantonly omitted in the petition by the petitioners. In order to drag on the proceedings, the petition is filed. Hence prayed to dismiss the petition.

4. respondents 1 and 3 are died. The respondents 5 to 7 are already set aside in the original suit.

5. Now the point for consideration in this petition is

(i) Whether the petitioners are entitled to the relief as sought for ?

(ii) Whether this petition is to be allowed ?

6. **POINTS:**

Heard both side.

This petition is filed by the petitioners, who are the plaintiffs in the Original suit to implead the 9th respondent as legal heir of K. Dhanraj as 9th defendant in the original suit.

7. The case of the petitioners is that the petitioners/plaintiffs have filed the suit seeking partition and allotment of their 12/30th share in the suit properties. By inadvertence, one of the legal heir of K. Dhanraj who is the brother plaintiff's

father namely Kokila has been left to be arrayed as defendant. Hence, she has to be necessarily impleaded as 9th defendant.

8. This petition is opposed by the respondents 2, 4 and 8 that even though the plaintiffs knew that the proposed party is a legal heir of K. Dhanraj, deliberately and wantonly they omitted and at the belated stage, this petition is filed only to protract the proceedings.

9. Admittedly, the petitioners herein are the plaintiffs, who have filed the original suit for the relief of partition and allotment of their 12/30th share in the suit properties and also for declaration that the partition deed dated 05.05.2006, 09.05.2006 as null and void. In the original suit, the defendants 1, 3 were died and defendants 5 to 7 were set exparte and defendants 2, 4 and 7 already filed written statement, issues are framed, and now the suit is pending for further evidence on the side of defendants.

10. As per the case of the plaintiff, the suit properties are the joint family properties of one Venu who is the father of plaintiffs and K. Dhanraj. The plaintiffs 1 and 2 are the children of one Venu through his first wife and the defendants 1 to 4 are his children through his second wife. The defendants 5 to 7 are the children of K. Dhanraj.

11. The petitioners alleges that the proposed 9th respondent Kokila is the daughter of K. Dhanraj and she has to be necessarily impleaded in the suit. The main contention of the respondents 2, 4 and 8 is that though the proposed party is a

legal heir of K. Dhanraj, this petition is filed at the belated stage after a period of 13 years of filing the suit.

12. Admittedly, the legal heirship of the proposed party is not denied by the respondents. Even though the respondents objected on the ground that this petition has been filed belatedly, they have not disputed the fact that proposed parties are necessary parties to be impleaded. Moreover, petitioners have come forward with this petition for the reason stating that since plea of the defendants in the suit is that the suit is bad for non joinder of necessary party for not impleading all the legal heirs of deceased K. Dhanraj.

13. The original suit is for the relief of partition. Therefore, the petitioners have to be given opportunity to adduce all the evidence and by impleading all the necessary parties and all the properties which is subjected for partition for proper adjudication of the case. Since the respondents themselves admitted the proposed party, 9th respondent Kokila is the daughter of K. Dhanraj and the other legal heir, i.e. defendants 5 to 7 are already as parties, this court is inclined to allow this petition since the proposed party is a necessary party for proper adjudication of the original for partition.

14. Even though the respondents 2, 4 and 8 contend that this petition is filed at the belated stage when the suit is posted for further defendant side evidence, no prejudice would be caused to the respondents since the suit is filed for partition and separate possession both parties will be benefited by impleading all

the necessary parties in the original suit. It is settled law that under Order I Rule 10(2) of Civil procedure Code, the court can at any stage shall add or struck down any party as it may appear to the Court to be just. Therefore, considering the plea of these petitioners, in order to give an opportunity to the petitioners to prove their case by impleading all the necessary parties in the suit, as it appears from the above circumstances that the 9th respondent is the necessary party for proper adjudication and also for just decision of the case, to avoid multiplicity of proceedings and also in the interest of justice, this Court is inclined to allow this petition. Accordingly, these points are answered in favour of the petitioners.

In the result, this petition is allowed and the 9th respondent is impleaded as 9th defendant in the Original suit. No costs.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 26th day of September, 2025

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

**List of Witnesses and exhibits on the side of
Petitioners and Respondents: NIL**

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**