

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. **V. Vannamalar**, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Friday, the 21st day of February 2025

I.A.No11/2024

in

O.S.No.13/2021

1. D.Gunasundari (Died)	
2. Jayanthi (Died)	Petitioners/Defendants 1 and 2
3. R.Dhanammal	
4. D.Gopal	Petitioners/Proposed 5 th and 6 th Defendants

-Vs -

1. Sowbagyavathi (Died)	
2. T.Muruganandan	
3. D.Padmini	
4. T.Palani	 Respondents/Plaintiffs
5. A.K.Vijayagopal	
6. The Sub Registrar, Ponneri	Respondents/Defendants 3 and 4

This petition came up for hearing on 07.02.2025, in the presence of Mr.A.Devendran, learned counsel for the Petitioners/Proposed 5th and 6th Defendants and Mr.R.Krishnaswamy, learned counsel for the Respondents/Plaintiffs 2 to 4. Respondent 5 and 6 were set exparte in the suit and hence notice to them in this petition is dispensed with. Upon hearing the arguments of both sides and on perusal of the material case records and having stood over for consideration before this court till this day, this court delivers the following

ORDER

This petition has been filed by the petitioners Section 151 of Civil Procedure Code seeking to re-open the case to implead the legal heirs of the 1st defendant in the suit.

2. Brief averments of the affidavit filed by the petitioners are as follows:

2.1. The 3rd petitioner/Proposed 5th Defendant files this affidavit on her behalf and on behalf of her brother, the 4th petitioner/Proposed 6th defendant. The 3rd petitioner states that the plaintiffs have filed the suit for declaration and permanent injunction against their mother namely D.Gunasundari, the 1st Defendant and their sister namely D.Jayanthi, the 2nd Defendant and the 3rd Defendant, who is the power of attorney agent of the 2nd Defendant and the Sub Registrar, Ponneri, the 4th Defendant. The 3rd petitioner submits that pending suit the 2nd defendant namely Tmt.Jayanthi died unmarried on 12.09.2020 leaving behind her mother, the 1st defendant as her only legal heir. The 2nd defendant executed a power of attorney deed in favour of the 3rd defendant. The said power of attorney deed became infructuous on the death of the 2nd petitioner. Subsequently the 1st defendant who was a heart patient was taking regular treatment, could not meet her previous counsel and she died on 15.05.2022 leaving behind the proposed defendants as her legal heirs.

2.2. The 3rd petitioner further submits that the plaintiffs knowing well about the death of the 1st defendant wantonly did not take steps to implead the legal heirs of the deceased 1st defendant. Both the proposed defendants are necessary parties to the above suit. Hence this petition.

3. Brief averments of the counter filed by the 2nd Respondent/2nd plaintiff and adopted by the Respondents 3 and 4/Plaintiffs 3 and 4 are as follows:

3.1. The respondents submit that neither the first defendant nor the second defendant has got any manner of right or interest over the suit property. The very case of the respondents 2 to 4/plaintiffs 2 to 4 in the above suit was that the suit property originally belonged to one Nagammal who had already sold the same to Thirunavukarasu Mudaliar, husband of the first plaintiff and father of the other plaintiffs as early as in the year 1969 by a registered sale deed. While so the 1st defendant in the above suit namely Gunasundari by creating a bogus legal heir certificate as if she was the daughter of the said Nagammal created a false settlement

deed on her daughter Jayanthi, who was the Second defendant in the above suit. The said Jayanthi in turn created a Power of Attorney deed in the name of the third defendant and thereby they attempted to Grab the suit property. Also, the respondents state that even assuming without admitting that the 1st defendant is the legal heir of the said Nagammal, when the Nagammal herself conveyed the property by a Registered Sale deed in the year 1969 itself neither the First Defendant nor the second defendant can claim any right or interest over the suit property. Now the petitioners have projected as if they were also the legal heirs of the deceased first defendant. The averment made by the petitioners that the plaintiffs knowing fully well about the death of the first defendant did not take steps to implead her legal heirs is denied as false.

3.2. Further the respondents state that it is duty of the counsel appearing for deceased defendants to inform the death of the defendants which has not been done. The present petitioners are no way connected to the suit property. The present application has been filed to protract the proceedings in the above suit. Hence this petition is liable to be dismissed with costs.

4. Respondent 5 and 6 were set exparte in the suit and hence notice to them in this petition is dispensed with.

5. On the side of the petitioners and the respondents no oral or documentary evidence was placed before this court. Now, it is the paramount duty of this court to decide whether this petition is to be allowed or not?

6. Heard both sides arguments. Records Perused.

7. On careful analysis, it is noted that the petitioners 3 and 4 are the proposed defendants in the suit and the suit has been filed by respondents 1 to 4/ plaintiffs for a relief of declaration of certain documents as null and void and for a relief of permanent injunction along with other reliefs. When the suit is pending this petition has been filed by the legal heirs of the deceased 1st defendant to implead them as

necessary parties to the suit. Though the respondents 2 to 4 / plaintiffs have filed their counter objecting to allow this petition, at the time of arguments, the counsel for the plaintiffs has made an endorsement in the petition stating that this petition may be allowed by giving them liberty to file a petition to implead the legal heirs of the deceased 1st defendant. In order to find out whether a person is a necessary party to the suit, it must be established that the proposed party has got a right in respect of the suit proceedings and in the absence of the said proposed party no effective decree can be passed. The respondents have not denied the legal heirship status of the proposed defendants. Considering the above, this court concludes, that the 3rd and the 4th petitioners are necessary parties to the suit since any decree passed in the suit will also bind them. It is thus necessary to add the said proposed parties as defendants in the suit for effectual and complete settlement of issues in the suit and to avoid multiplicity of litigations.

8. In the interest of justice and in consideration of the nature of the suit, this court is of the view that an opportunity to be given to the petitioners to get themselves impleaded in the suit and to prove their case in the suit and hence this court is inclined to reopen the suit and thus allows this petition.

9. In the result, this petition is allowed. No costs.

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 21st day of February 2025.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.11/2024
O.S.No.13/2021
Date:21.02.2025
DMC,PNI