

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.

Wednesday, the 13th day of August 2025.

INTERLOCUTORY APPLICATION NO.2 OF 2024
IN
ORIGINAL SUIT NO.77 of 2009

S.Padmanaban

..... Petitioner/Plaintiff

Versus

1. A.Kothandan

2. A.Sigamani

3. R.Ekambara Gramani

4. V.Periyasamy

5. V.Gnanasekar

..... Respondents/ Defendants

6. B.K.Murali Krishna

..... Respondent/ Proposed 6th Defendant

This petition came up before me for final hearing on 06.08.2025 in the presence of Mr.R.Kalamegam, Learned counsel for the petitioner and Mr.T.Susairaj, Learned counsel for the Respondents 1 and 2 and Mr.S.C.Pallavan, Learned counsel for the 6th Respondent. The 3rd Respondent was set exparte in the suit and hence notice to 3rd respondent in this petition was dispensed with. The respondents 4 and 5 were set exparte in this petition. Upon hearing the arguments made by the learned counsels for the petitioner and the respondents 1, 2 and 6, and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This application is filed under Order 1 Rule 10(2) of CPC to implead the respondent/proposed 6th defendant in the above suit in OS.No.77 of 2009.

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

The petitioner herein and the plaintiff in the main suit. The above suit filed for a relief of declaration and permanent injunction as against the respondents/defendants. The case is posted for cross examination of PW1. The defendants 1 to 5 an illegal attempt to lay fencing in and around the suit property, immediately the petitioner lodged a police complaint before respective police and the same was enquired by the respective Police and advised both the parties to seek remedy before the court of law. The local people that the defendant 4 and 5 had made illegal sale transaction in the suit property to third parties while suit is pending. Hence for an encumbrance certificate on 03.10.2024 for the suit property, shocking and surprisingly his found the same. The above said defendants 4 and 5 sold the suit property to one B.K.Murali Krishna who is respondent/proposed 6th defendant on 06.07.2021 vide sale deed document No.4598/2011 on the file Sub Registrar Office at Arani is not binding on him, while suit pending before this court. Hence it is just and necessity in the interest of justice to file this application. The balance of convenience only is in favour of the petitioner in the case. Hence this petition.

3. Brief averments of the counter filed by the 2nd respondent and adopted by the 1st respondent are as follows:

The respondent submit that the petitioner is trying to implead proposed 6th respondent who is said to have purchased from 4th and 5th respondents. The petitioner himself has stated that the document has been registered in the year 2011 and date of sale deed is wrongly mentioned as 06.07.2021. The petitioner has failed to implead the proposed party and also failed to seek for declaration to declare the alleged sale deed has not valid. The petitioner has not substantiated his claim as to his right in the property which has been sold in favour of proposed respondent. It is barred by limitation and petitioner cannot seek to set aside the sale deed. The averments filed for allowing the application are not bonafide.

4. Brief averments of the counter filed by the 6th respondent are as follows:

The respondents submit that he has purchased the suit property in the year 2011 from the right and lawful owners. Hence, this respondent is a bonafide purchaser of the suit property for a valuable consideration and his rights are protected under law. The respondent submits that from the date of purchase, this respondent is in possession and enjoyment of the suit property and the suit is in partly heard stage and hence at this juncture this kind of application is not sustainable in law. The application is filed after 14 years from the date of purchase by this respondent only to protract the proceedings and to harass this respondent to this court and to dictate terms to this respondent. The respondent submits that there is no bonafide in the above application and the reasons given in the affidavit are not sustainable in law. The balance of convenience is in favour of this respondent only. If the petition is allowed, this respondent will be put to irreparable loss, hardship and injury. The balance of convenience is in favour of the respondent only. Hence, to dismiss the above petition with costs.

5. The 3rd Respondent was set ex parte in the suit and hence notice to 3rd respondent in this petition was dispensed with. The respondents 4 and 5 were set ex parte in this petition.

6. Evidence :

Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court.

7. Point for determination :

Whether this petition is to be allowed or not.

8. Discussion and Findings :

8.1. The petitioner/Plaintiff has filed the suit seeking relief of a declaration of title and permanent injunction against the respondents/defendants. The suit is currently at the stage of cross-examination of PW1. The petitioner claims that defendants 1 to 5

attempted to illegally enclose the suit property by fencing it, and further alleges that defendants 4 and 5 have executed a sale transaction with third parties during the pendency of the suit. Specifically, the petitioner contends that on obtaining the encumbrance certificate on 03.10.2024, the petitioner/plaintiff came to know that defendants 4 and 5 had sold the suit property via a sale deed dated 06.07.2021 registered as Document No. 4598/2011 to one Mr. B.K. Murali Krishna, the 6th respondent and proposed 6th defendant. Accordingly, the petitioner has filed this petition seeking to implead the 6th respondent in the suit.

8.2. On the other hand, the respondents have stated that the sale deed was registered in 2011, and not on 06.07.2021 as claimed by the petitioner. They further argue that the petition is time-barred, and the petitioner cannot seek to set aside the document at this stage.

8.3. Upon hearing both sides, this Court is of the considered view that while the existence of the sale document is not denied by the 1st and 2nd respondents, the year of registration is under dispute. It is important to note that this petition is solely concerned with the matter of impleading the 6th respondent as a party to the suit. The validity and relevance of the sale document will be addressed and adjudicated during the trial.

8.4. At this juncture, it is a well-established rule under the principle of Dominus Litis that the plaintiff, being the dominus litis in a suit, has the right to choose the parties against whom he wishes to litigate. This proposition has also been affirmed in the case of *Kasturi vs. Iyyamperumal*, (2005) 6 SCC 733. Further, it was held in the case of *Devaki Thiyagarajan vs. Ahmed*, instituted under O.S.A. No. 178 of 2014, that

“the Court has the power to implead any party at any stage of the proceedings, whose presence is necessary in order to enable the Court to effectually and completely adjudicate upon and settle all the questions involved in the suit.”

8.5. On the above factual matrix, this Court is of the considered view that allowing the present petition for impleadment would not cause any prejudice or injustice to the defendants. The petitioners have shown sufficient cause for bringing the proposed party on record. In order to effectively adjudicate the matter, the presence of the proposed party is essential for effective and complete adjudication of all issues involved in the suit. All other aspects related to this petition shall be considered and decided during the final disposal of the suit.

8.6. In the interest of justice and to avoid multiplicity of proceedings, this Court finds it both just and necessary to implead the proposed parties as defendants in the suit. Such impleadment would ensure that all relevant persons are before the Court and that the matter is adjudicated upon comprehensively.

8.7. Accordingly, the petition is allowed and the proposed party shall be impleaded as defendants in the suit. There shall be no order as to costs.

9. Result :

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

Dictated by me to the stenographer, transcribed by her, corrected and pronounced by me in the open court, on this the 13th day of August 2025.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.2/2024
O.S.No.77/2009
Date:13.08.2025
DMC,PNI.