

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE (FTC),
VELLORE, VELLORE DISTRICT.**

PRESENT: P.V.Sandilyan
Additional District Judge (FTC),
Vellore.

Tuesday, the 14th day of October, 2025

I.A. No.10/2025 in O.S. No.76/2017

Viswanathan . . . Petitioner/Plaintiff

Versus

1. G.Subramani (Died)
2. S.Jagadambal
3. Murugan
4. Jothi
5. Gnanambikai
6. Karunakaran
7. Madavan
8. Elumalai
9. Chithra . . . Respondents/ Defendants
10. The Sub Registrar, Vellore
11. The District Registrar, Vellore . . . Respondents/Proposed Parties

This petition came up before me for final hearing on 26.09.2025, in the presence of Thiru.B.Palanisamy, Counsel for the Petitioner; Thiru.S.Babu, Counsel for the Respondents 2, 3 and 9; Respondents 4 to 8, 10 and 11 were called absent, set exparte; and the 1st Respondent was died and upon hearing the arguments of both sides, upon perusal of case records and having stood over for

consideration till this date, this court delivers the following:-

ORDER

This petition has been filed under Order I Rule 10 and Section 151 of C.P.C. to implead the proposed parties detailed in the petition as defendants 10 and 11 in the above suit.

2. The averments of the affidavit are as follows:-

The petitioner is the plaintiff in the above suit filed for the partition to divide the A and B schedule mentioned properties into 3 equal shares and to allot one such share to the petitioner and the same is pending for disposal. The petitioner had been examined as PW.1 and also cross-examined by the counsel for the respondent/defendants and the witnesses had also been examined and cross-examined and the evidence of petitioner's side was closed by this Court.

On the side of the respondents/defendants, witnesses were then examined. The DW.4 was further examined on the side of the respondents/defendants by filing the proof affidavit. Now the petitioner's counsel has to cross examine the DW4. Since the petitioner's counsel was engaged in another court, his counsel was not in a position to cross-examine the DW4, meanwhile this court closed the witness of D.W.4 without the cross examination of petitioner's counsel. The same was not willful or wanton but was due to reasons beyond their control. It is just and necessary that the DW.4 had to be recalled for the cross-examination of

their counsel. Hence, they were filing a petition to recall DW.4 for the cross-examination of their counsel. They added that unless this petition was allowed, they would be put to serious loss and hardship. The petitioner claimed that the respondents were trying to alienate the suit property to third parties and were also trying to encumber the property to the third party. They alleged that the proposed parties, the Sub Registrar and District Registrar, had suppressed the above suit and registered the documents submitted by the respondents. It is therefore prayed to implead the proposed parties mentioned in the petition as defendants 10 and 11 in the main suit.

3. The brief averments of the Counter filed by the 3rd Respondent adopted by Respondents 2 and 9 are as follows:-

3.1 The application is not sustainable either in law. These respondents claimed that the suit had remained pending for several years and that the petitioner was filing delay the proceedings and harass the respondents. The Sub Registrar and District Registrar were neither necessary nor proper parties to the partition suit, which was a dispute among family members. They added that no substantive relief had been sought against them, and their impleadment would only unduly complicate and prolong the proceedings. The petitioner's vague allegations about the suppression of the suit in respect of registered documents were unsubstantiated and unsupported by any evidence. They claimed that no

specific impleadment of those government servants.

3.2 The petitioner had already filed I.A.No. 7 of 2024 seeking to implead parties as defendants 10 and 11. They argued that by filing the present application with the same serial numbers for proposed defendants, the petitioner was clearly indulging in repetitive and careless drafting. The repeated filing of the same relief indicated an intent to cause confusion, unnecessarily delay proceedings, and abuse the process of law. They concluded that such conduct should not be permitted by the Hon'ble Court. It was therefore prayed to dismiss the petition with costs of the respondents.

4. There is no oral and documentary evidence on both sides.

5. *The point for consideration in this petition is, **whether the proposed parties are to be impleaded as Defendants 10 and 11 in the suit as prayed for?***

6.POINT:

6.1 The learned counsel for the petitioner contented that suit filed for the relief of partition to divide the A and B schedule properties in the suit into 3 equal share and allot 1 such share to the petitioner. Further, contented that the respondent's are trying to alienate the suit property to the third parties and also day to day trying to encumber to the third party by the respondent. Further, it is stated the proposed parties Sub-Registrar and District-Registrar are suppressed

the above suit, registered the documents submitted by the respondent for encumbrance to the third parties which is against law and they are ought to be impleaded as defendants 10 and 11.

6.2 The learned counsel for the respondent contented that impleading the Sub-Registrar and District-Registrar, the proposed parties/respondents 10 and 11 as defendants 10 and 11 in the above suit is not sustainable. The petitioner dragging the case for several years by filing unnecessary application solely to delay the proceedings. Further, contended that the proposed parties are neither necessary nor proper parties, no substantive relief has been sought against them and prayed to dismiss the petition.

6.3 It is admittedly the suit is for partition among family members. It is settled law that the plaintiff is dominus litis, he has the choice to implead those persons as defendant against whom he vindicates his right under Order 1 Rule 3. Order 1 Rule 10 enables the court to add any person at any stage of the proceeding if the presence of such person is found necessary to effectively adjudicate upon the controversies involved in the suit. Further, petition for joinder of parties based on transfer pendente lite is made, the transferee should ordinarily be joined as party to enable him to protect his interest. The 4th respondent alienated the portion of the property in favour of 10th respondent in the year of February 2024, bonafidely the petitioner also filed the petition

immediately to implead them in IA.No.09 of 2024. Though the transferees are neither necessary nor proper parties as the alienation is hit by the doctrine of lis pendense. However, transferees pendente lite would be impleaded as party to avoid multiplicity of litigation and IA.No.09 of 2024 is allowed by ordering to implead them as 10 and 11th defendant.

6.4 The petitioner in IA.No.09 of 2024 pleaded to implead 10 and 11th respondent that is the purchaser pendente lite and mortgagee and the above IA was order to be allowed.

6.5 In a partition suit third person claiming title to the suit property adverse to the plaintiff and defendant is a necessary party. Only a necessary or proper party can be added as a parties. No substantive relief sought against the proposed respondent's 10 and 11 to be added as D12 and 13 defendant. The Sub-Registrar and District-Registrar generally have no interest in the suit property and no convincing ground demonstrated by the petitioner to add them as a necessary party. The proposed parties was neither a necessary nor proper party the petitioner have not pleaded that the proposed parties are necessary parties. Even prohibitory order can be issued against the parties to prevent registration during the pendency of the suit not to the Sub – Registrar. The Sub-Registrars do not have a dominus litis or a real interest in the out come of the partition suit. There functions is to register documents presented to them not to litigate about the title

or division of property. Their role is to carry out the registration of documents, if found to be in conformity with requirement of Registration Act and Rules. They are not the parties to the dispute over the property ownership. Any transaction on the suit property that happens during the litigation is subject to the rule of lis pendense, any subsequent sale or registration will be subject to the outcome of the suit. The plaintiff/petitioner can very well invoke O39 CPC to obtain an injunction, on merits, against the defendant not to make any encumbrance. Hence, this court is of the view that the petition is devoid of merits and liable to be dismissed.

In the result this petition is dismissed. The parties shall bear their own cost.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 14th day of October, 2025.

**Additional District Judge (FTC),
Vellore.**

Annexures: Nil.

**Additional District Judge (FTC),
Vellore.**