

**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.9/2024 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
- 10.R.Nandhakumar
- 11.M/s.Shriram Housing Finance Ltd.,

.....Respondents/ Defendants

....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 1<sup>st</sup> 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 petitioners/proposed parties as defendants 10 and 11 in the above suit for proper adjudication of the case.

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

The petitioner is the plaintiff in the above suit for 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. During the pendency of the above said suit, the 4<sup>th</sup> defendant, viz.Jothi, by suppressing the real facts i.e., about the pendency of the partition suit filed by the petitioner wantonly, willfully with the malafide intention had alienated portion of the suit schedule mentioned property to one R.Nandhakumar, S/o.Ramajayam Mudaliar, under the Registered sale deed dated 07.02.2024. The said R.Nandhakumar will not perfect and valid title in respect of the property that was purchased by him under the registered sale deed dated 07.02.2024. That being so, the said R.Nandhakumar, had mortgaged the property that was purchased by him, from the 4<sup>th</sup> defendant to M/s.Shriram Housing Finance Ltd., Vellore under the Registered Mortgage Deed on 04.05.2024 and obtained the loan amount of Rs.31,83,000/-. The registered sale deed dated 07.02.2024 and the registered mortgage deed dated 04.05.2024 will not bind the petitioner's legitimate share in

the suit schedule mentioned properties. Now it is just and necessary both of them i.e., the said R.Nandhakumar and the M/s.Shriram housing finance Ltd., Vellore have to be impleaded in this suit for the proper adjudication of the case. Hence, this petition to implead them as the necessary party for the proper adjudication of the case. Unless this petition is allowed I will be put to serious loss and hardship. It is therefore prayed to implead the proposed parties as detailed in the petition as the defendants 10 and 11 for the proper adjudication of this case.

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

The petition is not sustainable either in law or based on the facts of the case. The suit had been filed in 2009 and was already more than 14 years old. The had been making continuous attempts to prolong the proceedings and harass the parties. The petitioner had even filed two more applications-one for recalling DW4 and another for cross-examining DW4 along with the present application. According to these respondent, it had become the petitioner's practice to keep filing one application after another only to delay the proceedings. The petitioner's real intention is to coerce the respondents by prolonging the suit and frustrating them. The petitioner had been abusing the process of law by exploiting every possible opportunity to delay the proceedings and such dishonest tactics should not be entertained by this Court and that the petition deserved to be

dismissed.

4. There is no oral evidence on both sides.

5. The point for consideration in this petition is, ***whether the proposed petitioners 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 during the pendency of the proceeding 4<sup>th</sup> respondent/defendant alienated the portion of suit schedule property to the 10<sup>th</sup> proposed party Tr. Nandhakumar under the registered sale deed dated 07.02.2024, who in turn mortgaged the property to the 11<sup>th</sup> defendant namely M/s.Shri ram Housing Finance Ltd. Vellore under a registered mortgaged dated 04.05.2024 therefore the petitioner prayed for proper adjudication of the case to implead the proposed parties as defendants 10 and 11 in the suit.

6.2 The learned counsel for the respondent contented that impleading 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 more than 14 years filed xerox copies of the documents to coerce the respondents and prayed to dismiss

the petition.

6.3 It is admittedly the suit is for partition. The 4<sup>th</sup> respondent alienated the portion the suit property to the proposed 10<sup>th</sup> respondent by way of registered sale deed on 07.02.2024 and the proposed 10<sup>th</sup> respondent mortgaged the property in favour of proposed 11<sup>th</sup> respondent under a registered mortgaged dated 04.05.2024. The petition was filed by the petitioner in the month of August 2024. It is settled law that the plaintiff is dominus litis, he has the choice to implead those persons as defendant against whom he substantiate 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 4<sup>th</sup> respondent alienated the portion of the property in favour of 10<sup>th</sup> respondent in the year of February 2024, bonafidely the petitioner also filed the petition immediately to implead them. 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. Even the respondent's 10 and 11 proposed parties failed to enter appearance in this application and they were set exparte. This court is of the

considered view to allow the petition.

**In the result this petition is allowed and the respondent's/proposed parties 10 and 11 are ordered to be impleaded as 10 and 11<sup>th</sup> defendant in the main suit.**

Dictated to the Steno-Typist, transcribed by her, 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.**