

**IN THE COURT OF THE I ADDITIONAL DISTRICT AND SESSIONS  
JUDGE, VELLORE, VELLORE DISTRICT.**

**PRESENT: Tmt.G.Santhi, B.A., M.L.,**  
I Additional District and Sessions Judge,  
Vellore.

Wednesday, the 10th day of July, 2024

**I.A. No.1/2023 in O.S. No.112/2022**

Babu Samuel Selvaraj . . . Petitioner/Plaintiff

Versus

1. Dr.George Anderson (Died) . . . Respondent/Defendant

2. The Christian Medical College Vellore  
Association, Represented by its Secretary  
Dr.Vinay Timothy Oommen

. . . Respondent/Proposed Party

This petition is coming on 27.06.2024 before this court for final hearing in the presence of Thiru.S.Gunasekaran, Advocate for the Petitioner/Plaintiff, Thiru.C.Sampath, Advocate for the 2nd Respondent/Proposed Party and upon perusing the entire case records and having stood over for consideration till this day, this Court delivered the following:-

**ORDER**

This petition filed on behalf of the Petitioner under Order 1 Rule 10(2) and Section 151 of C.P.C. to implead the 2nd respondent as 2nd defendant in the suit.

**2. Brief averments in the affidavit are read as follows:**

(i). The petitioner is the adopted son of the defendant and his wife, viz.Dr.Selvamani. His mother, viz. Dr.Selvamani died on 01.11.2007. He has filed the above suit for the relief of partition by claiming 1/2 share in the suit properties and the deceased defendant was having 1/2 share in the suit properties. This being so, the deceased 1st defendant has filed a suit in O.S.No.140/2022 as against the petitioner for the relief of declaration of his title to the suit properties and also for delivery of possession and he has valued the said suit

U/s.25(a) of Court Fees Act and the Certified copy of the plaint in O.S. No.140/2022 is filed with this petition.

(ii). The petitioner submits prior to the filing of the suit and till date, he is in possession and enjoyment of the suit properties without any let or hindrance from anyone. During the pendency of the said suit I reliably learnt that the deceased defendant was trying to make encumbrance in respect of the suit properties in favour of the Christian Medical College and Hospital, Vellore. Immediately, the petitioner issued a legal notice dated 09.10.2022 to the Director, Christian Medical College and Hospital, Vellore by informing about the pendency of the above said two suits and also informing the Director, Christian Medical College and Hospital, Vellore not to enter with the defendant in any type of document as the 1st item of the suit property was the separate property of his mother and the 2nd and 3rd item of the suit properties were purchased jointly in the name of his mother and his father, viz. the 1st defendant. Moreover, the petitioner is residing in the 2nd item of the suit property and the said legal notice was duly served on the Director, Christian Medical College and Hospital, Vellore and the office copy of the said notice and the served acknowledgement card may be read as part and parcel of this petition. The Director, Christian Medical College and Hospital, Vellore has not sent any reply for the said legal notice.

(iii). The petitioner further submits that all of a sudden on 30.11.2022 at around 11.30 a.m., someone claiming to be working at Sub-Registrar's Office, Katpadi tried to measure the 1st and 2nd item of the suit properties by stating that the deceased defendant has executed two gift deeds vide document No.11376/2022 and 1178/2022 for which the petitioner objected to measure the same and he said person left without measuring the same.

Immediately, the petitioner got the encumbrance certificate and he was shocked to see that the deceased defendant had executed the above said two gift deeds in respect of the 1st and 2nd item of the suit properties and on the same day, i.e. 30.11.2022 the petitioner issued a legal notice to the Sub-Registrar, Katpadi not to come and measure the 1st and 2nd item of the suit properties as the above suit is pending and the petitioner is the owner and is in possession and enjoyment of the same. The said notice dated 30.11.2022 was duly served on the Sub-Registrar, Katpadi and the Office copy of the legal notice dated 30.11.2022 and the served acknowledgement card are filed and the same may be read as part and parcel of this petition. The Sub-Registrar of Katpadi has not sent reply for the same.

(iv). The petitioner further submits that he has sent another legal notice dated 30.11.2022 to the District Collector of Vellore District, The Tahsildar of Katpadi, The Village Administrative Officer of Katpadi Village, the Assistant Director of Survey of Vellore District and the Taluk Head Surveyor of Katpadi by stating about the pendency of the suits and also his peaceful possession and enjoyment of the same and also requested them not to change or alter the revenue records in respect of the 1st and 2nd item of the suit properties and the said legal notice was duly served on them. The office copy of the legal notice dated 30.11.2022 and the served acknowledgement cards on the said five addresses are filed and the same may be read as part and parcel of this petition. The said five officials have not sent any reply for the same. This being so, the defendant died intestate on 25.01.2023 leaving behind me to succeed his estates.

(v). The petitioner further submits that the above said two gift deeds are void documents as the same has not complied the provisions of the Transfer of Property Act as the said deceased defendant was not in possession and enjoyment of the suit properties

which can be seen from the suit in O.S. No.140/2022 filed by him and when the deceased defendant himself was not in possession and enjoyment of the suit properties, the gift deeds vide document No.11376/2022 and 1178/2022 are void documents as the same was executed between deceased defendant and proposed party during the pendency of the above suit as the proposed party has not knowledge about the pendency of this suit and the suit in O.S. No.140/2022 when the legal notice dated 09.10.2022 was duly sent to the Director, Christian Medical College and Hospital, Vellore and the deceased defendant, the above said two gift deeds were executed with a view to give troubles to the petitioner and the same will not bind him. Moreover the deceased defendant has filed his written statement on 23.01.2023, but he deceased defendant has not stated anything about the above said two gift deeds in his written statement which will shows the bad intention of the deceased defendant and also his only intention was to give troubles to the petitioner.

(vi). The petitioner further submits that as the deceased defendant died on 25.01.2023, the petitioner alone entitled to get the suit properties as his adopted son. Since the deceased defendant has made encumbrance in respect of suit properties during the pendency of he suit and the same is not a valid one and as advised, the petitioner is filing this petition to implead the proposed party as 2nd defendant in the above suit for proper adjudication and also to avoid multiplicity of proceedings. No prejudice will be caused to the other side if this petition is allowed and the petition has got to be allowed in the interest of justice.

It is therefore prayed to implead the 2nd respondent as 2nd defendant in the above suit.

**2. Brief averments in the counter are read as follows:**

(i). The respondent does not admit any of the allegations, contained in the petitioner's affidavit except those which are specifically admitted herein and puts the petitioner to strict proof of the same.

(ii). The respondent submits that it is no doubt true that the deceased defendant had filed the suit in O.S.No.140/2022 on the file of this court and died on 25.01.2023 pending disposal of both the suits, but it is absolutely false to state that the gift deeds, executed by the deceased defendant are avoid documents.

(iii). In fact, prior to the filing of the suit in O.S.140/2022, the said George Alfred Anderson had executed a Registered Will ated 28.07.2022, bearing Doc.No210/3/2022 of S.R.O. Katpadi, bequeathing the suit properties in the above suit absolutely in favour of the respondent institution, viz . “ The Christian Medical College Vellore Association” under the schedule 'A' and Schedule 'B' of the said Will.

(iv). The respondent submits that since the said George Alfred Anderson was critically ill and admitted as an inpatient in CMC, Vellore, he as an absolute and lawful owner of the suit properties, had also executed two registered Gift Deeds, bearing Doc.Nos.11376/2022 and 11378/2022 of S.R.O., Katpadi, in favour of the respondent institution granting, transferring and settling absolutely by way of gift the suit properties in the above suit and also put the respondent, the Donee in possession and enjoyment of the same, to have and hold the same absolutely, free from all encumbrances and forever. The respondent had also accepted the gift of the properties, more fully described in the Schedule, given under the aforesaid Gift Deeds, which were duly acted upon. Subsequently pending disposal of the above suit, the plaintiff died on 25.01.2023. The written statement filed by

the deceased defendant in the above suit may be treated as part and parcel of this affidavit. The various other allegations to the contra, made in paras. 3 to 8 of the petitioner's affidavit are false, frivolous and baseless besides self-serving and motivated. The respondent, in any event, reserves its rights to file its detailed written statement in the above suit after it gets impleaded as prayed for by the petitioner himself. The respondent prays to allow the above application to implead the respondent as the 2<sup>nd</sup> defendant in the above suit.

4. Whether the petition is to be allowed or not?

5. Records perused. On perusal of records, counter filed by the 2<sup>nd</sup> respondent /defendant /proposed party, he admitted the petition on the file of this court on 18.04.2023. The respondent denied the allegation in the petition that the Gift Deed execution.

6. The respondent submitted that he prays to allow the application. Sufficient time given learned council for R1 has no objection to implead the proposed party.

8. On perusal of records, the suit filed for the partition of the suit property. In this circumstances, admittedly there was a settlement deeds executed by defendant the petitioner seeking relief by filing this petition to implead the proposed party/2<sup>nd</sup> respondent.

9. The case was pending at the stage of issues. In this circumstances, the 2<sup>nd</sup> respondent/proposed party claiming the right through settlement deeds as narrated in the application and counter it is just necessary to allow the application for proper adjudication as per order 1 Rule 10 CPC at any stage of the proceedings. When the court satisfied that the person ought to have been joined to avoid multiplicity of proceedings and complete adjudication this court decided to allow this application.

As a result, this petition is allowed. No cost.

Dictated by me to the Steno-typist, typed by him in computer, corrected and pronounced by me in the Open Court, this the 10th day of July, 2024.

I Additional District and Sessions Judge,  
Vellore.