

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
VIRUDHUNAGAR**

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.M.,**
Additional District Judge, Virudhunagar

Tuesday, the 11th day of March, 2025

IA No.05/2025 in
OS.No.02/2014

Jawahar ... Petitioner/proposed 46th defendant.
Vs

1. J.Girijarani
2. V.Vimala @ Vimala Chandirakantham ... 1st and 2nd respondents/plaintiffs.
3. A.R.V.Jeyaraman.
4. J.Sridharan
5. G.Vijayalakshmi
6. G.Janarthanan
7. A.R.V.Ramachandran (Died)
8. A.R.V.Jeganathan.
9. J.Kalpana.
10. R.Muthala Aadhi Appasamy.
11. M.Rajaram
12. A.R.V.Jegadesan (Died)
13. J.Vasanthi.
14. M.Sheelapriya.
15. M/s A.R.Venkidasamy Naickar & Sons Share company
Virudhunagar.
16. A.R.V.Jegadesan & Co. Share Company, Virudhunagar.
17. A.R.V.Ramachandran & Co Share Company, Virudhunagar.
18. Tamilnadu Mercandile Bank, Virudhunagar branch,
through its Manager.
19. Central Bank of India, Virudhunagar Branch
through its Manager.
20. S.Gopal Appasamy.
21. D.Devarajan.
22. T.Govindaraj.
23. P.Chandramohan.
24. G.Rajendran.
25. C.Vadivel.
26. A.R.R.Seenivasan.
27. G.Veerachamy.
28. Sri Dhandayuthapany Kovil Trust, Virudhunagar
through its Trustee V.Vijayakumar.

29. S.A.Balasubiramaniam.
30. V.D.Nagapusanam Nadar.
31. V.Vijayakumar.
32. V.Ramasamy.
33. N.Sundaramoorthi.
34. N.Pandi
35. S.M.R.Mahendran.
36. E.Ramanujam.
37. S.Rajagopal.
38. E.Josva Milton
39. R.Sinthamani Ammal.
40. R.Surendra Kannan.
41. R.Rajagopal.
42. R.Parthasarathy
43. R.Senthamaraiselvi
44. J.Prema
45. Abarna
46. L.Dhomodaran.

... 3rd to 46th Respondents/
Defendants 1 to 44.

This petition came up on 10.03.2025 for final hearing before me, in the presence of Thiru.S.Sridaran, learned advocate for the petitioner and Thiru C.Haribalakrishnan, learned advocate for the 3rd and 44th respondent and Thiru.N.Solairaj, learned advocate for the 8th and 9th respondents and respondents 7, 12 died and all other respondents set exparte and upon considering all material records in this case and having stood over till this day for consideration, this court doth deliver the following

ORDER

This petition is filed by the petitioner/3rd party under Order 1 Rule 10(2) CPC to implead him as 46th defendant in the suit.

2) It is alleged in the petition that this petitioner purchased 1.70 acres in Sy.No.258/2 and 4.27 acres in Sy.No.258/3 from Rajendran, Devarajan and Chandramohan on 21.02.2018. Those properties are scheduled as 'A' schedule items 63 and 59. Moreover, this petitioner has purchased Sy No.231/2, 232/3, 233, 258/5, 232/1, 232/4, 258/6, 258/7, 262/3, 259/1, 259/3, 218/2, 229/1, 230 and Sy.No.234/3

from Rajendran, Devarajan and Chandramohan and he is in separate possession of the properties. Those properties were scheduled as 'A' schedule items 55 to 57, 60 to 62, 64 to 72. The plaintiffs in this case informed this petitioner in the month of September that case is pending before the court at Virudhunagar with respect to above properties. But refused to give the details of the case. The vendors of this petitioner, Rajendran, is the 22nd defendant and Devarajan is the 19th defendant, Chandramohan is the 21st defendant, Vadivel is the 23rd defendant and Govindaraj is the 20th defendant in this case. Now only the petitioner came to know about the case details. At the time of purchase of the properties, the petitioner is not aware of the pendency of this case. The vendors of this petitioner did not disclose the pendency of the case. Hence, to protect the interest of the petitioner, the petitioner has to be impleaded as 46th defendant in this case.

3) The 3rd respondents filed counter contending that this case is pending from the year 2014. This petitioner purchased the properties during the pendency of this case on 21.02.2018. Hence there is no necessity to implead the petitioner as defendant in this case. Hence, the petition has to be dismissed.

4) The 6th and 7th respondents also filed counter contending that the sale deed in favour of this petitioner is hit by lispendens. The vendors of this petitioner were already arrayed as 18th to 23rd defendants and hence, this petitioner is not a necessary party in this case and hence this petition has to be dismissed.

5) Other respondents did not file any counter.

6) There is no oral or documentary evidence on both sides.

7) The point for consideration is whether this petition deserves to be allowed?

8) Heard and documents perused.

9) **Point:**

This petitioner herein is the 3rd party, who filed this petition to implead him as 46th defendant, in this case. The suit is filed by the 1st and 2nd respondents/plaintiffs for partition of their 2/7 share in the scheduled properties. ;Admittedly during the

pendency of the suit, this petitioner purchased some of the suit properties. Now it is the averment on the side of petitioner that at the time of execution of sale deed, the vendors of this petitioner did not disclose about the pendency of this case and so the petitioner was unaware of the pendency of this case. The respondents contended that the suit is pending from the year 2014 and the petitioner purchased the properties only during the pendency of this suit. So the petitioner is a pendente lite purchaser, who is bound by decree and he need not be impleaded.

10) It is seen from the records that the petitioner purchased some of the plaint scheduled properties from defendants 19, 20, 21, 22 and 23 during the pendency of this case. It is also seen that the vendors of this petitioner remained exparte in this case. It is the specific case of the petitioner that the vendors of this petitioner did not disclose about the pendency of this case at the time of sale. So it is argued by the learned counsel for the petitioner that the vendors colluded with 1st and 2nd respondents/plaintiffs and this petitioner has to protect his interest in the suit. In support of his argument, the learned counsel for the petitioner submitted the judgment in the case **Yogesh Goyanka Vs. Govind and others**. Wherein it is held as follows

Civil Procedure Code, 1908 – Or.1 R. 10 -Impleadment of a transferee pendente lite who undisputedly had notice of pending litigation – Permissibility – Transferee having a registered sale deed in his favour and thus seemingly acquired an interest in subject land, therefore it would be in interest of justice if appellant is impleaded in underlying suit to protect his interests.

Normally pendente lite purchaser is bound by the decree and he need not be impleaded. But, in this case, the vendors of the petitioner remained exparte. So to protect the interest of the petitioner in the properties purchased by him, in a suit for partition he is a proper party. By impleading this petitioner, the 1st and 2nd respondent/plaintiffs will not be prejudiced in any way. Hence this petition has to be allowed.

11) In the result, this petition is allowed. No order as to cost.

Dictated to the steno-typist, typed by her, corrected and pronounced by me in open court, on this the 11th day of March, 2025.

(Sd.) T.V.Hemanandakumar,
Additional District Judge,
Virudhunagar.

Witness and Exhibits on the side of the Petitioner:

Nil.

Witness and Exhibits on the side of the Respondents:

Nil.

(Sd.) T.V.Hemanandakumar,
Additional District Judge,
Virudhunagar.