

**IN THE COURT OF THE COMMERCIAL COURT (SENIOR CIVIL JUDGE),
SALEM**

PRESENT:- Tmt. D. Asha Kousalya Shanthini, B.Sc., B.L.,
Judge, Commercial Court (Senior Civil Judge), Salem.

Tuesday, the 23rd day of June 2026

I.A.No. 6 / 2026 in C.O.S.No.110/2025

CNR No. TNSA24-000218-2025

N. Rajagopal

... Petitioner/ Defendant

/vs/

1. S. Venkatesh

... Respondent / Defendant

2. K. Kandasami

3. K. Kumar

4. M. Manikandan

5. S. Kannan

... Respondents/Proposed parties

This petition came before me 19.06.2026 in the presence Thiru. G. Muthamilselvan, Learned Advocate for the Petitioner and Thiru. S. Kumaresan, Learned Advocate for the 1st Respondent, Thiru. P. Shanmugam, Learned Advocate for the respondents 2 to 4 / Proposed parties and upon hearing both side and perusing the documents having stood over till this day for consideration and this court delivers the following:

ORDER

1. This petitioner / seeks for impleading the proposed parties as directors of Kanjamalai Textile Weaver Producer company limited.

2. **The petition averments in brief:** The petitioner / plaintiff and the defendant had business transactions and as per the statement of accounts as on 28.02.2025 the 1st respondent / 1st defendant has to pay Rs.17,40,195/- to the petitioner. The 1st respondent informed the petitioner / plaintiff as if he is the proprietor of M/s.Kanjamalai Textile Weaver Producer company limited, who never disclosed that it is a society and he never gave the particulars of the directors, who intentionally concealed the particulars of the directors and recently the petitioner got the particulars of the directors of the Kanjamalai Textile Weaver Producer company limited. Hence, he seeks for impleading the proposed parties (R2 to R5) in the main suit as they are also liable jointly and severally to pay the suit claimed amount.
3. **The brief averments stated in the counter filed by the Respondents is as follows:** In a suit for commercial claim as pre-litigation mediation under Section12A of the Commercial Courts Act 2015 is mandatory, without following the mandatory provision the petitioner has no locus standi to file the present petition. The petitioner has suppressed the material facts that in the present suit, trial is over and both sides arguments are heard and at this belated stage the present petition is filed by the plaintiff without whispering anything about the same. The petitioner has filed the main suit as if the 1st respondent / defendant alone is the proprietor of the defendant company and against his own pleadings now the petitioner wants to implead the proposed parties which is not legally permissible. The 1st respondent/ defendant has specifically pleaded about the nature of the company, its origin and particulars about its directors in his written statement itself and the petitioner / plaintiff was cross examined on that aspect in detail while so the present petition is devoid of any merits where its only purpose is to prolong and protract the trial.

4. The proposed parties 2 to 5 / respondents have also filed a similar counter raising strong objections for allowing the present IA.
5. Now the point to be answer is whether the present petition is to be allowed or not ?
6. Heard both sides, records perused.
7. Admittedly the main contention of the petitioner / plaintiff in his original plaint is that the 1st respondent / defendant is the proprietor of M/s. Kanjamalai Textile Weaver Producer company limited. which was categorically denied by the defendant in the written statement itself and as rightly argued by the Learned counsel appearing for the 1st respondent, the defendant has clearly pleaded about the details of all the proposed parties as the directors of the said Kanjamalai Textile Weaver Producer company limited in his written statement dated 16.10.2025 itself.
8. Based on the pleadings of both the sides on 18.11.2025 the court has framed specific issues No. 1 and 2 (regarding the said company)
 - i. Whether the defendant is alone proprietor of Kanjamalai Textile Weaver Producer Company Limited or he is one among the director of the Company?
 - ii. Whether the Commercial Transaction was happened between the plaintiff and defendant ?

But, even after framing of such specific issues, while case management hearing was fixed and done by the court (from 2011.2025 till 24.02.2026), the petitioner / plaintiff failed to implead the present proposed parties as the

defendants for reasons best known to him. During the enquiry , this intentional inaction is not explained by the Counsel for the petitioner, who would only submit that during the arguments only he came to know about the details of the proposed parties as the directors of the said Kanjamalai Textile Weaver Producer company limited and then only he believed the said details, for which he relied upon an online downloaded material giving particulars about the said Kanjamalai Textile Weaver Producer company limited. When such an information is easily available online, why the plaintiff waited till the case management hearing has come to stage where oral arguments are made before the court and the matter is posted for judgment, to believe that the proposed parties are the directors of the said company is not answered by the petitioner's side, which is a very vital aspect found against the petitioner.

9. As rightly pointed out during the enquiry, by the learned Counsel appearing for the respondents 1, 3 to 5, if the proposed parties are to be added as the defendants now, a fresh trial from the stage of mandatory mediation under Section 12A of the Commercial Courts Act is to be done. When there is no iota of proof placed before the court by the petitioner/plaintiff till date to show that the proposed parties / respondents 2 to 5 had any business transactions with the petitioner, why the present impleading prayer is very relevant question which was not answered by the petitioner during the enquiry.
10. During the cross examination of the plaintiff / PW1, he has categorically stated that from the year 2019 he has got business dealings with the defendant as per Ex.A1 which is the account statement relied on by the petitioner / plaintiff . The said Ex.A1 appears like a ledger account which is the only documentary proof available on record in the present suit to prove the commercial liability of Rs.17,40,197/- due from the respondent/defendant, who is being sued as the

sole proprietor originally. In order to show the business transactions with the said *Kanjamalai* Textile Weaver Producer company limited, the plaintiff relies upon Ex.A1 only. While the petitioner is not able to offer any acceptable clarification on this vital aspect, whether the proposed parties are to be impleaded at this fag end of the case management hearing schedule, just because now the plaintiff/petitioner believes that they are also the proprietors of the said company is a very relevant question. During the enquiry, no satisfactory answer is offered in this regard, which is cutting at the very root of the present interim prayer.

11. During the cross examination of the defendant / DW1, the petitioner / plaintiff tries to elicit that the defendant is the proprietor of *Kanjamalai* Textile Weaver Producer company limited and in that capacity only cheques were given by him. But in the cheques (6 Nos.) which were admitted by the petitioner, it is seen that the cheques were not issued for any *Kanjamalai* textile ,whereas, the cheques were issued by the defendant himself in his own name.

12. The main reasons stated in the accompanying affidavit is that the 1st respondent intentionally concealed the particulars of the directors and recently only the petitioner got the particulars. If the petitioner truly felt such intentional concealment at the early stage of the trial, he could have sought for discovery by interrogatories at the earliest instance. Why he never resorted to such actions and kept quite till the fag end of the trail is not explained satisfactorily during the enquiry. As per Order 15 A of the Civil Procedure Code case management hearing there is a time limit fixed for the completion of the trial and as per Order 15A Rule (8), if non compliance of the parties is willfully done, the court can even dismiss the plaint.

13. As rightly mentioned in the counter, there is no cause of action pleaded against any other person except the defendant in the original plaint and now against his own pleading, the petitioner wishes to implead the proposed parties as if now only he came to know about their details is very much altering the nature of the suit from in the original plaint. As against the plaint pleadings, when the defendant has taken a specific stand that the proposed parties are the proprietors of the said Kanjamalai Textile Weaver Producer company limited, whereas, there was no business transactions between himself and the petitioner right from his written statement, now the plaintiff trying to implead the proposed parties is found to be a typical inconsistent stand, which is legally untenable. Considering the plaintiff's version, for the above said reasons, this court is of the opinion that the presence of the proposed parties may not be necessary for the effective and complete adjudication of the issues raised between the plaintiff and the defendant at this stage end of the trial.

14. Considering the facts and circumstances of the present case, for the above said reasons, the present interim application appears to be nothing but a dragging on technique only, which should not be allowed any further. As the prayer for impleadment by the petitioner/plaintiff is found merit-less, this court is not inclined to allow the present IA as prayed for.

In the result, the IA is dismissed. No costs.

For arguments of both the sides in the main suit, call on 25.06.2026

Directly dictated to the Steno-Typist, typed by her in computer and taken print out and after rectification of mistakes, pronounced by me in open court, this the 23rd day of June 2026.

Judge,
Commercial Court (Senior Civil Judge),
Salem.

Both sides Exhibits and Witnesses: NIL

Judge,
Commercial Court (Senior Civil Judge),
Salem.