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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2026

CORAM

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

A No. 4922 of 2025
in
CS NO. 876 of 2007

1. Premchand Jain
2. Suresh Kumar
3. Kattariya Jewellers
   Rep.by its Proprietrix

..Applicants

Vs

1. Jupiter Jewel Tech
   Rep.by its Partner
2. S.Dilli (Since deceased)
3. S.Saravanan (Deceased)
4. S.Sarveswaran
5. S.Sulochana

   5th defendant brought on record as per order dated 12.04.2013 made in A.No.1138 of 2013

6. Radhika Saravanan
7. Minor Srinath
8. Minor Harinath

   7 and 8 Minors are represented by their Mother and Natural guardian Radhika Saravanan

   Defendants 6 to 8 brought on record as per order dated 03.03.2014 made in A. No.1546 of 2014

9. Goutham Siddharth

10. Jayam Jewel Tech

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Rep.by its Proprietor Sharmila Sarveshwaran,
No.2, TVS Nagar, 2nd Main Road, Korattur,
Chennai 600 076.

11.J.J.Tech
Rep.by Proprietor S.Sarveshwaran,
No.15, Magadi Main Road, Bangalore,
Bengaluru Urban,
Karnataka 560 023.

..Respondents

A No. 4922 of 2025

Prayer : To implead the Respondents / Proposed Defendants 9 to 11 (1) (Goutham Siddharth, S/o.S.Dilli Achari, No.2, TVS Nagar, 2nd Main Road, Korattur, Chennai-76, (2) Jayam Jewel Tech, Rep by its proprietor Sharmila Sarveshwaran, No.2, TVS Nagar, 2nd Main Road, Korattur, Chennai 600 076 and (3) J.J. Tech, represented by Proprietor S. Sarveshwaran, No.15, Magadi Main Road, Bangalore, Bengaluru Urban, Karnataka State 560 023.

For Applicants: Mr.R.Thiagarajan

For Respondents: Mr. Guru Dhananjay for R4 to R8

Order

This Application has been filed by the plaintiff under Order XIV R.8 of O.S. Rules read with Order 1 Rule 19(2) of CPC, 1908, seeking to implead the proposed defendants as defendants 9 to 11 in the suit.

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2. Mr.R.Thiagarajan, the learned counsel for the appearing for the applicants would submit that, the suit was originally filed as against Jupiter Jewel Tech represented by its partners namely, S. Dilli, S.Saravanan, S.Sarveswaran. Pending suit, the said Dilli and Saravanan had died, their legal heirs have been brought as defendants 5 to 8. However, the proposed defendant, namely Gowtham Siddharth, son of deceased S. Dilli, was, inadvertently, not brought on record. His further contention is that, the original defendants 1 to 4, in collusion and connivance with each other not only siphoned of and secreted the funds collected from various persons in jewellery trade, but also misappropriated the gold ingots and the funds provided by them which were given to Jupiter Jewel Tech for the manufacture of the casting gold jewellery by the plaintiff. The plaintiffs were given to understand that after closing down the Jupiter Jewel Tech, the original firm, the erstwhile partners S. Dilli, S.Saravanan, and S. Sarveswaran, had opened proprietary concerns in the following names:

a) Jayam Jewel Tech, Rep by its proprietor Sharmila Sarveshwaran, having address at No.2, TVS Nagar, 2nd Main Road, Korattur, Chennai 600 076

b) J.J. Tech, represented by Proprietor S. Sarveshwaran, No.15, Magadi Main Road, Bangalore, Bengaluru Urban, Karnataka 560 023.

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Hence, it has become necessary to implead the above firms as necessary parties to the suit. Unless the proposed parties are impleaded as defendants 9 to 11, the plaintiffs will not be in a position to enforce the decree as against the persons to whom the gold ingots were entrusted by the plaintiffs. Hence, prayed for allowing the said application.

3. Mr. Guru Dhananjay, the learned counsel appearing for the respondents 4 to 8 filed a counter affidavit of respondents 4 to 8 which states that the defendants 2 to 4 were partners of the 1st defendant partnership firm. On 18.01.2013, the 2nd defendant had died and on 06.01.2014, the 3rd defendant died. Ever since the demise of the above defendants, no new partnership deed was drawn up, nor was the firm reconstituted. As a result, the partnership firm had ceased to be operational, and no business activity has been carried on in the name of the 1st defendant firm. Further, the proposed defendant concerns are separate entities and they have no connection with the 1st defendant partnership firm against which the relief has been sought by the plaintiff in the present suit. It is further submitted that, the plaint does not contain any pleadings with regard to the allegations made in the present application and that the conduct of the plaintiff to implead the above two independent entities as defendants 10 and 11 is misleading and that they have no connection with the 1st defendant firm and that they have no objection in impleading the 9th defendant as legal heir of the deceased S. Dilli. Hence, prayed for dismissal of the application insofar as the

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defendants 10 and 11 are concerned.

4. Heard on both sides. Records perused.

5. The plaintiffs have filed the above suit for recovery of 33,820 grams of gold together with interest at the rate of 20 grams per kilo per month on the gold weighing 19 kgs from the date of the suit till realisation; or alternatively the recovery of gold weighing 15,775.10 grams with interest at the rate of 20 grams per kilo per month on 14,464.10 grams from the date of suit till realisation along with a sum of Rs.52,80,000/- together with interest at the rate of 24% per annum from the date of plaint till realisation.

6. It is the contention of the learned counsel for the applicants/plaintiffs that the partners of the 1st defendant firm, acting in collusion with each other siphoned of and secreted the funds collected from various persons in jewellery trade and also misappropriated the gold ingots and the funds provided by them which were given to Jupiter Jewel Tech (1st defendant) for the manufacture of the casting gold jewellery by the plaintiffs. According to the plaintiffs, after Jupiter Jewel Tech was closed down, the business activities were continued through the proprietary concerns of the defendants in the name of proposed defendants 10 and 11. It is therefore contended that unless the concerned proprietary concerns are brought on record, the decree that may ultimately be

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passed in favour of the plaintiffs cannot be effectively worked out or enforced.

7. On the contrary, the learned counsel for the respondents 4 to 8 would contend that, the 1st defendant firm had already been dissolved and that the 9th defendant alone is liable to be impleaded as the legal heir of late S. Dilli. It is further contended that there is no pleading in the plaint regarding the allegations now made in the application concerning siphoning of funds, misappropriation of gold ingots or continuation of business through proprietary concerns. On that basis, the defendants 4 to 8 contended that the proposed parties namely, the 10th and 11th defendants are neither necessary nor proper parties.

8. The suit was admittedly instituted against the 1st defendant firm through its partners. Now the question arises whether the proprietary concerns referred to in the application should be impleaded in the suit. The power under Order 1 Rule 10(2) CPC is discretionary. A person may be added where his presence is necessary for effective and complete adjudication of the questions involved in the suit. The provision is intended to avoid multiplicity of proceedings and to enable the Court to effectively determine the controversy. However, impleadment cannot be ordered merely because allegations are made against a proposed party in an interlocutory application. The proposed party must have a legally recognisable interest in the subject matter of the suit, or the relief claimed in the suit must be capable of affecting such party. In the present

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case, the plaintiffs alleges that after the closure of Jupiter Jewel Tech, namely the 1st defendant herein, the business was continued through the proprietary concerns of the defendants and that those concerns are connected with the transactions which forms the subject matter of the suit. The defendants dispute the said allegation and contend that the 1st defendant firm had been dissolved.

8.1. At this stage, the Court is not called upon to decide whether the allegations of siphoning of funds, misappropriation of gold ingots or continuation of business are true. Those are matters for trial. However, the allegation made for the first time in an impleadment application cannot, by itself, enlarge the scope of the suit or introduce an independent cause of action against strangers to the suit. If the plaintiffs seek substantive relief against the proprietary concerns on the basis of transactions which are not pleaded in the plaint, the appropriate course would for the plaintiffs to seek amendment of the plaint, if permissible in law, and to disclose the cause of action and relief sought against such proposed defendants. Only thereafter can the question whether those concerns are necessary or proper parties be effectively considered.

8.2. Consequently, the objection of the defendants that the allegations concerning the proprietary concerns are not contained in the plaint has considerable force. The Court cannot, by an order of impleadment alone, permit the plaintiffs to introduce a new and independent cause of action against entities

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which are not presently parties to the suit. At the same time, this Court is satisfied that the legal representative of the deceased partner S. Dilli ought to be brought on record as 9th defendant. His presence would enable the Court to effectively and completely adjudicate the rights and liabilities arising out of the transaction, already forming the subject matter of the suit.

9. In the result, the application is partly allowed. The legal heir of the deceased S.Dilli is permitted to be impleaded as 9th defendant representing the estate of the deceased. Insofar as the prayer to implead the proprietary concerns as defendants 10 and 11 is concerned, the same is dismissed.

10. The plaintiff is directed to carryout necessary amendments in the plaint and submit a clean copy of the plaint within a period of two weeks. List the matter on 15.09.2026 for filing written statement.

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K.GOVINDARAJAN THILAKAVADI J.

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