



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-04-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

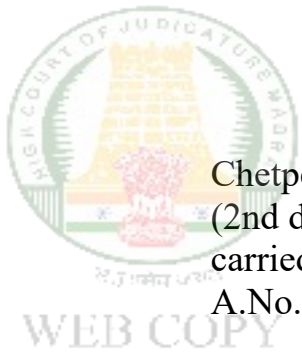
**A No. 798 of 2026
in TOS.No.20 of 2018**

A.G.Hemanathan
S/o.Late A.D.Gopalakrishnan,
No.8/393, 20t Sarojini Street, GKM Colony,
Chennai 600 082.

..Applicant(s)

Vs

1. C.D.Krishnamoorthy and 2 others
S/o.Late Mr.C.P.Dorasingham
New No.34, Old No.22, Club Road,
Sreenivasa Nagar, Chetpet,
Chenani-600 031
2. Mrs.Suman Sugumar
W/o.Late Mr.Sukumar
D/o.Late C.P.Dorasingham
C/o.S.Pavithra
Flat No.A-1, 12-B, GMB Aishwarya Flats
Vinayapuram, Ambattur OT,
Chennai-600 035.
Represented by Power Agent
Mrs.S.Pavithra Kumari,
D/o.Late Sukumar,
No.107/45, Diamond Flats, Anna Nagar,
West Extension, Chennai - 600 101.
(D1 recognized by Power Agent and amended as
per order dated 13.10.2025 in A.No.4936/2025 in
TOS.No.20/2018 and time extended by order
dated 30.10.2025 in TOS.No.20/2018)
3. A.G.Chandrasekaran
S/o.Late A.D.Gopalakrishnan,
New No.34 (Old No.22),
1st Floor, Club Road,



Chetpet, Chennai - 600 031.
(2nd defendant impleaded and the amendment
carried out as per order dated 16.03.2023 in
A.No.1166/2023)

..Respondent(s)

To implead the applicant as a proposed 3rd defendant in the above T.O.S.No.20
of 2018 on the file of this Honble Court.

For Applicant(s): M/s.S.Suresh

For Respondent(s): Mr.C.Ramesh

ORDER

This application has been filed to implead the applicant as a proposed 3rd
defendant in T.O.S.No.20 of 2018.

2. The case of the applicant, is that the 1st respondent/plaintiff is his
maternal uncle, the 2nd respondent/1st defendant is his maternal aunt and the
3rd respondent/2nd defendant is his brother. According to him, in the original
O.P., his mother G.Kishori had been shown as a respondent and was set ex
parte; later, the original petition was converted into T.O.S.No.20 of 2018 on
contest by the 1st defendant. The applicant would further state that his brother
had earlier filed A.No.1166 of 2023 seeking impleadment of both himself and
the applicant and, by order dated 16.03.2023, the said application was partly
allowed only insofar as his brother was concerned, while the applicant's



impleadment was rejected, since he had not directly sought impleadment. The applicant would also state that his mother died intestate on 01.12.2020 and that he, being one of her legal heirs, is a necessary party.

3. A memo has now been filed by the applicant undertakes to adopt the written statement already filed by the 1st defendant and also to adopt the cross-examination already conducted by defendants 1 and 2 with respect to P.W.1 to P.W.3 and states that he does not intend to recall or further cross-examine the said witnesses. The memo also expressly states that the application is sought at a stage when the plaintiff's evidence has already been completed and the cross-examination of D.W.1 is in progress.

4. The proceedings bundle placed before this Court shows that the suit has been pending for several years and that the matter had substantially progressed. The plaintiff's witnesses were examined over time, including P.W.1, P.W.2 and P.W.3, and their cross-examination had also been undertaken on behalf of the contesting defendants. Thereafter, the matter moved to the defendants' side evidence, D.W.1 was examined on 23.01.2026, Ex.D1 was marked, and on 04.02.2026 D.W.1 was present and was cross-examined in part, the suit is in the stage of D.W.1 cross-examination.

5. On a consideration of the materials placed, this Court is not



inclined to allow the application. The applicant himself admits that an earlier application had already been filed in the year 2023 by his brother seeking impleadment of both of them and that the said application was partly allowed only in respect of his brother. Thus, the applicant cannot be heard to say that he had absolutely no occasion to approach this Court at an earlier point of time. Even according to him, his mother died on 01.12.2020. Yet, the present application has been filed only in the year 2026, after the suit has reached the stage of defendants' evidence and when the cross-examination of D.W.1 is in progress.

6. The memo filed by the applicant, undertaking to adopt the written statement of the 1st defendant and the earlier cross-examination of P.Ws.1 to 3, does not cure the fundamental defect of delay and belated approach. Impleadment is not to be ordered as a matter of course, especially in a suit that has reached an advanced stage, unless the Court is satisfied that the presence of the applicant is indispensable for an effective adjudication. In the present case, the affidavit itself shows that the applicant claims through his deceased mother and that his own brother, said to be another legal heir of the mother, is already on record as the 2nd defendant pursuant to the earlier impleadment order dated 16.03.2023. In such circumstances, this Court is unable to hold that the applicant's impleadment at this late stage is necessary for the effective adjudication of the testamentary suit.



7. This Court is of the view that allowing the application now would only unsettle the trial which has already substantially progressed and would inevitably protract the proceedings. The explanation offered by the applicant is not sufficient to justify such belated impleadment.

8. Accordingly, this Application is dismissed. No costs.

06-04-2026

Index: Yes/No
Speaking/Non-speaking order
DPQ



WEB COPY



DR.A.D.MARIA CLETE, J.

DPQ

**A No. 798 of 2026
in TOS.No.20 of 2018**

06-04-2026