



C.M.P.Nos.10279 & 5074 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2026

PRESENT:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.M.P.Nos.10279 & 5074 of 2025

in

A.S. Nos. 31 & 33 of 2021

Mrs.Deepa

... Petitioner in both the petitions

Vs.

1.K.Sargunan

2.Mrs.Eswari

3.Mrs.Renuka

4.The Tahsildar,
Perur Taluk,
Coimbatore.

5.The Commissioner,
Coimbatore Municipality,
Coimbatore.

6.The Sub-Registrar Joint – II,
Raja St., Coimbatore. ... Respondents in C.M.P.No.10279 of 2025



C.M.P.Nos.10279 & 5074 of 2025

1.K.Sargunan

2.Mrs.Eswari

3.Mrs.Renuka

...Respondents in C.M.P.No.5074 of 2025

PRAYER in C.M.P.No.10279 of 2025: Civil Miscellaneous Petition filed under Order 1 Rule 10 (2) of Civil Procedure Code praying to grant leave to implead the petitioner/proposed 6th respondent herein as the 6th respondent in A.S.No.31 of 2021 and pass any other order and thus render justice.

PRAYER in C.M.P.No.5074 of 2025: Civil Miscellaneous Petition filed under Order 1 Rule 10 (2) of Civil Procedure Code praying to grant leave to implead the petitioner/proposed respondent herein as the 3rd respondent in A.S.No.33 of 2021 and pass any other order and thus render justice.

For Petitioner : Mr. M. Arun in both petitions.

For Respondents: Ms.V.Srimathi for R1 in both petitions.

Mr.T.John Alexander for R2 & R3 in both petitions.

Mr.K.Mahesh for R5.

Mr.M.Murali, Government Advocate
for R4 & R6.

COMMON ORDER

Heard.



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2. These petitions are filed by the pendente lite purchaser seeking to implead herself as the 6th respondent in A.S.No.31 of 2021 and as the 3rd respondent in A.S.No.33 of 2021.

3. Respondents 2 and 3 filed O.S.No.90 of 2016 against the 1st respondent. The 1st respondent, in turn, filed O.S.No.63 of 2017 against respondents 2 and 3. Both suits concerned the same property and sought declaration of title and permanent injunction. The learned III Additional District and Sessions Judge, Coimbatore, tried the suits jointly and decreed the suit filed by respondents 2 and 3 in O.S.No.90 of 2016. Aggrieved thereby, the 1st respondent preferred A.S.Nos.31 and 33 of 2021 against the common judgment and decree, and the same are pending.

4. During the pendency of the said appeals, the present petitioner purchased the suit property on 24.11.2023. On the strength of the said conveyance, she seeks to implead herself as the 6th respondent and 3rd respondent in the appeals respectively. In her affidavit, she has made certain averments regarding delivery of possession, title, and allied



aspects. Those averments are wholly immaterial and irrelevant for deciding the present petitions. The only relevant consideration is that she claims to be an assignee from respondents 2 and 3. As an assignee, she can claim no higher right than what her vendors possessed. In effect, she steps into the shoes of respondents 2 and 3 and is bound by the same limitations.

5. It is pertinent to note that the petitioner has not averred that respondents 2 and 3, having alienated the property, are unwilling or unable to contest the appeals bona fide. Ordinarily, when the original parties remain on record, the presence of a transferee pendente lite is not mandatory. However, since respondents 2 and 3 have divested themselves of their interest in the property, their locus to effectively prosecute or defend the lis stands substantially diminished. The petitioner's request, therefore, requires consideration in her capacity as an assignee of interest.

6. The petitioner's contention that she is a necessary party under Order I Rule 10 CPC is misconceived. The request is appropriately governed by



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Section 146 CPC and Order XXII Rule 10 CPC, which provide for proceedings by or against persons claiming under a party.

7. The 1st respondent opposed the petitions, placing reliance on the decision of the Hon'ble Supreme Court in **H. Anjanappa & Ors. v. A. Prabhakar & Ors., Civil Appeal Nos.1180–1181 of 2025, dated 29.01.2025**. The facts of that case are clearly distinguishable. As rightly pointed out by the learned counsel for the respondent, there, the issue concerned grant of leave to a pendente lite purchaser to file an appeal, the purchase having been made during the subsistence of an interim injunction. The purchaser's earlier impleading application had been dismissed and had attained finality, and the appeal preferred by his vendor was also dismissed. In that backdrop, the Supreme Court faulted the High Court for condoning an inordinate delay and granting leave to the pendente lite purchaser to prefer an appeal. The present case stands on a different factual footing and does not attract the ratio in the manner contended.



8. In the said judgment, the Hon'ble Supreme Court referred to **Amit Kumar Shaw v. Farida Khatoon, AIR 2005 SC 2209; Thomson Press (India) Ltd. v. Nanak Builders & Investors P. Ltd., (2013) 5 SCC 397; and Smt. Saila Bala Dassi v. Sm. Nirmala Sundari Dassi, AIR 1958 SC 394**, wherein it was held that a transferee *pendente lite* may seek leave to come on record under Section 146 CPC and Order XXII Rule 10 CPC.

9. In paragraph 58 of **H. Anjanappa (supra)**, the Supreme Court summarised the principles governing impleadment of a transferee *pendente lite*, inter alia, as follows:

“58. From a conspectus of all the aforesaid judgments, touching upon the present aspect, broadly, the following would emerge:

- i. First, for the purpose of impleading a transferee *pendente lite*, the facts and circumstances should be gone into and basing on the necessary facts, the Court can permit such a party to come on record, either under [Order I Rule 10 CPC](#) or under [Order XXII Rule 10 CPC](#), as a general principle;
- ii. Secondly, a transferee *pendente lite* is not entitled to come on record as a matter of right;
- iii. Thirdly, there is no absolute rule that such a transferee *pendente lite*, with the leave of the Court should, in all cases, be allowed to come on record as a party;



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iv. Fourthly, the impleadment of a transferee *pendente lite* would depend upon the nature of the suit and appreciation of the material available on record;

v. Fifthly, where a transferee *pendente lite* does not ask for leave to come on record, that would obviously be at his peril, and the suit may be improperly conducted by the plaintiff on record;

vi. Sixthly, merely because such transferee *pendente lite* does not come on record, the concept of him (transferee *pendente lite*) not being bound by the judgment does not arise and consequently he would be bound by the result of the litigation, though he remains unrepresented;

vii. Seventhly, the sale transaction *pendente lite* is hit by the provisions of [Section 52](#) of the Transfer of Property Act; and,

viii. Eighthly, a transferee *pendente lite*, being an assignee of interest in the property, as envisaged under [Order XXII Rule 10 CPC](#), can seek leave of the Court to come record on his own or at the instance of either party to the suit.”

10. In the present case, there is no allegation that the purchase was in violation of any subsisting injunction. The petitioner has acquired the interest of respondents 2 and 3 during the pendency of the appeals and seeks to safeguard that interest. Having regard to the principles laid down by the Apex Court, particularly clauses (i), (iv) and (viii) of paragraph 58,

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this Court is of the view that the petitioner is entitled to come on record to protect her interest as an assignee, subject always to Section 52 of the Transfer of Property Act, 1882. She cannot claim any independent or superior right beyond that of her vendors and shall be bound by the result of the appeals.

11. In the result, these petitions are allowed. The petitioner is impleaded as the 6th respondent in A.S.No.31 of 2021 and as the 3rd respondent in A.S.No.33 of 2021, with liberty to defend the appeals strictly in her capacity as an assignee of respondents 2 and 3, without setting up any independent or inconsistent plea. No cost.

18.02.2026

dpq/ay

Index : Yes/No

NCC : Yes/No

Speaking Order / Non-Speaking Order

To

1.The Tahsildar,
Perur Taluk,
Coimbatore.
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2.The Commissioner,
Coimbatore Municipality,
Coimbatore.

3.The Sub-Registrar Joint – II,
Raja St., Coimbatore.

*Note: Registry is directed to carry out necessary
amendments in the cause title.*



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DR. A.D. MARIA CLETE, J

ay

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Dated: 18.02.2026