



A.No.951 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2026

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

A No. 951 of 2026

in

C.S. No. 345 of 2019

Mrs.Shanthi @ Yazhini,
W/O.M.BASKER, NO.21/33, APPU STREET,
MYLAPORE, CH-4.

..Applicant(s)

Vs

1. Hari krishnan S/o.S.Kabali,
No.14, Ramakrishnapuram 5th Street, Mylapore,
Chennai 4.
2. M.S.Basker
S/o.Late.K.Muthusamy,
Old No.21, New No.33, Appu Street, Mylapore,
Chennai-60004
3. Mr.M.S.Chandrasekar alias Kevin Chandrasekar
S/o.Late K.Muthusamy,
No.4/28, Muthu Soali Street,
Teylors Road, Kilpauk,
Chennai 600 010.

..Respondent(s)

To implead the 3rd Respondent herein as 3rd Defendant in the above suit.

For Applicant(s): M/S.Sankarasubbu

For Respondent(s): Mr.M.Arun Kumar



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ORDER

Heard.

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2. This application has been filed by the second defendant, who was originally impleaded as the fourth defendant, seeking to implead M.S. Chandrasekar @ Kevin Chandrasekar, the deleted first defendant, once again as the third defendant in the suit.

3. The suit was originally filed against four defendants. The proposed party had been served with summons, remained ex parte, and later filed A.No.2564 of 2025 to condone the delay of 1128 days in seeking to set aside the ex parte decree. When the said application was taken up on 28.07.2025, the plaintiff filed a memo stating that no relief had been claimed against defendants 1 and 2, that they were only the vendors of the plaintiff, and that the suit was substantially against the other defendants. Recording the memo, this Court directed deletion of defendants 1 and 2 and consequential amendment of the plaint.

4. Thereafter, the present applicant filed this application to implead the deleted first defendant once again, contending that he is a necessary and proper party. The



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Registry had returned the papers in view of the earlier deletion order. However, the matter was directed to be numbered and placed before the Court for decision on merits.

5. The plaintiff has opposed the application. In the counter, it is stated that the proposed party had already been on record, had been duly served with suit summons, had allowed himself to be set ex parte, and was later deleted only because the plaintiff had given up the suit as against him and the other deleted defendant. According to the plaintiff, the suit is one for eviction and consequential reliefs against the present contesting defendant in respect of the plaintiff's 50% share purchased under the sale deed dated 25.11.2016 from the deleted defendant and his mother.

6. The plaintiff has further stated that he had paid consideration far in excess of the document value, and that the deleted defendant and his mother had given statements during criminal investigation supporting the sale transaction. It is also pleaded that the present application is only an attempt to protract the suit. The plaintiff points out that, when the present applicant was impleaded in 2021, her counsel had undertaken that no further application would be filed pending disposal of the suit. However, she thereafter filed A.No.5282 of 2023 for rejection of plaint,

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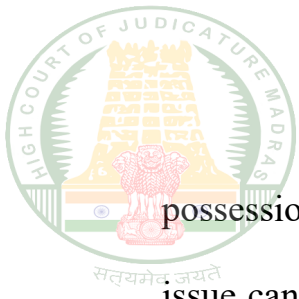
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which was dismissed, and has again filed the present application. The plaintiff, therefore, contends that the deleted vendor is neither a necessary nor a proper party.

7. On consideration of the materials, this Court is of the view that the application cannot be entertained. By order dated 28.07.2025, this Court accepted the plaintiff's statement that no relief was sought against defendants 1 and 2 and directed their deletion from the array of parties. That order was not passed behind the back of the proposed party. It was passed while considering his own application in A.No.2564 of 2025. The application was closed on the specific footing that the plaintiff had given up the suit as against defendants 1 and 2.

8. The present applicant cannot, by filing a fresh impleading application, indirectly reopen the effect of the order dated 28.07.2025. Further, on the plaintiff's own case, the deleted defendant is only the vendor from whom the plaintiff traces title. After amendment, no relief is sought against him.

9. The test for impleadment is whether the presence of the party is necessary for effective adjudication of the real controversy in the suit. The present controversy is whether the plaintiff, as purchaser, is entitled to recovery of



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possession and other consequential reliefs against the surviving defendants. That issue can be decided on the pleadings, documents, and evidence already available.

If the evidence of the deleted defendant is necessary, it is always open to the plaintiff to summon him as a witness.

10. The suit has been pending for a long time. The plaintiff's evidence has been completed, defendants' evidence has commenced, and the proposed party had earlier remained ex parte despite service. Reintroducing him as a party at this stage would only reopen matters already settled procedurally and cause further delay, without serving any legal necessity.

11. Accordingly, A.No.951 of 2026 is dismissed. No costs.

28-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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