



<u>S.No.</u>	<u>PARTICULARS</u>	<u>PAGE Nos.</u>
1.	Application for Impleadment as party defendants in the original suit with affidavit.	

IN THE SUPREME COURT OF INDIA  
ORIGINAL JURISDICTION  
I.A. No. OF 2020  
IN  
ORIGINAL SUIT (DIARY) NO.1648 OF 2020

**IN THE MATTER OF:**

STATE OF KERALA

REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY,

HOME AND VIGILANCE DEPARTMENT ... PLAINTIFF

VERSUS

UNION OF INDIA

REPRESENTED BY ITS SECRETARY,

MINISTRY OF LAW AND JUSTICE ...DEFENDANT

**AND IN THE MATTER OF:**

1. KUMMANAM RAJASEKHARAN,  
S/O. RAMAKRISHNA PILLA,  
TC 37/1841, SAKTHI NIVAS FORT,  
THIRUVANANTHAPURAM,  
KERALA STATE. ...APPLICANT No.1
2. AJIKUMAR,  
S/O. CHANDRANKUTTY,  
VETTIKKANAL VEEDU, ERUMELY SOUTH VILLAGE,  
KANJIRAPPALLY TALUK, ERUMELY PO.  
KOTTAYAM DISTRICT  
KERALA STATE. ...APPLICANT No.2

**APPLICATION FOR IMPLEADMENT AS PARTY DEFENDANTS**

**IN THE ABOVE ORIGINAL SUIT.**

TO

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES OF THE  
SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF  
THE APPLICANTS ABOVE NAMED

**MOST RESPECTFULLY SHOWETH:**

1. The present original suit is preferred by the State of Kerala represented by its Secretary to Government challenging the Citizenship Amendment Act and certain other amendments brought out by the Central Government in relation to Citizenship. The original jurisdiction of this Hon'ble court is invoked by the State Government claiming that the above mentioned amendments and the legislation passed by the Parliament of India has affected the legal right of the state and its inhabitants.
2. The 1<sup>st</sup> applicant is the former Governor of Mizoram and the 2<sup>nd</sup> applicant is a social worker and both are residents and voters of Kerala state. They are aggrieved by the Action of the Executive of the State of Kerala in preferring this original suit challenging the legislation passed by the Parliament of the country without ascertaining the majority view of the people of Kerala spending money from the public exchequer.
3. It is contended by the plaintiff in this case that the Citizenship Act is discriminatory as it has excluded migrants from countries like Sri Lanka, Myanmar and Bhutan which are sharing international borders of India and to which and from which there has been trans-border migrants. It is contended that in Sri Lanka and Bhutan, Buddhism is the State religion and the minorities in those countries are Hindus, Christian and Muslims. The case of the plaintiff is that the above said minorities are excluded in the impugned Act and therefore it is discriminatory in nature. Though such a contention is made it is not explained how and whether the above said minorities are facing religious persecution in those countries. It is further contended that exclusion of Ahmaddiyas and shias and Hazaras living in Pakistan, Afghanistan and Bangladesh is discriminatory. But the plaintiff is not explaining how these groups who are Muslims themselves can face

religious persecutions. The further case of the plaintiff is that exclusion of Rohingyas in Myanmar and Muslims in Sri Lanka are discriminatory. But the plaintiff has not explained how the case of Rohingyas can be included in the category of religiously persecuted. The plaintiff has also not revealed any details to show that the Muslims in Sri Lanka are religiously persecuted. The plaintiff has a further case that exclusion of Balochs, Sindhis, Pakthuns and Mohajirs in Pakistan and the Biharis in Bangladesh is discriminatory. But the plaintiff has not explained how an ethnic persecution can be equated with religious persecution.

4. So all together pointing out the alleged discrimination of exclusion of the above said categories, the plaintiff is claiming that the impugned Act is illegal and is violative of principles laid down by the Constitution of India. After pointing out these alleged discriminations, it is simply stated that there exists a dispute, involving questions of law and fact, between the Plaintiff State of Kerala and the defendant Union of India, regarding the enforcement of legal rights as a State and as well for the enforcement of the fundamental, statutory, constitutional and other legal rights of the inhabitants of the State of Kerala. Except stating so the plaintiff has not explained how the impugned Act is in any way affecting the legal right of the State and its inhabitants. The contention of the plaintiff has to be considered in the backdrop of the decision of this Hon'ble Court, wherein it was held that State by itself is an ideal person and legal entity and the Government is an agency through which the will of the State is formulated expressed or executed. India is a State of democracy and the will of the majority rules. When a State is filing a litigation before this Hon'ble court it means that the entire people of that State is before this Hon'ble Court.

Here the situation is totally different. Majority of the people of the State are supporting the impugned Act. The plaintiff has filed this original suit on the pretext that the entire people of Kerala are against the impugned Act. To give such an indication it is stated in the plaint that an unanimous resolution has been passed in the State Assembly seeking abrogation of the impugned Act. But it is to be noted here that the members of the Legislative Assembly has not sought the mandate of the people of Kerala by projecting the issues involved in the impugned Act. The election to the Kerala assembly has taken place in the year 2015 and the impugned Act was passed in the year 2019. So in affect the pretext in which the plaint is filed to the effect that entire State of Kerala is against impugned Act is against facts.

5. Moreover, the plaintiff has not made out any case to substantiate that the impugned Act has affected any existing legal right or liberty of the state of Kerala or its inhabitants. The issues involved in the impugned Act do not in any way affect any legal rights whatsoever of the State of Kerala or its inhabitants. The State Government to acquire right to file a suit under Article 131 of the Constitution of India requires the existence of a dispute involving any question of law or fact on which the existence or extent of a legal right depends. There is no such legal dispute exist between the plaintiff State of Kerala and the Union of India and the only dispute that exist is a political dispute. This court has categorically held in *State of Karnataka V Union of India* reported in 1978 SC 68 that the dispute must involve a question relating to a legal right and not a political right. Here it seems that the cabinet involving ministers representing various political parties constituting Left Democratic Front which is ruling the State which

include CPM and CPI has taken a decision to file this original suit on behalf of the State of Kerala even without consulting the Executive Head of the State namely the Governor. The Governor of the State Mr. Arif Mohammed Khan has openly declared that he is in favor of the impugned Act and that it is perfectly constitutional.

6. Matters being so it is highly reprehensible on the part of the State cabinet to force the Secretary to Government to file this original suit before this Hon'ble court against the impugned Act spending huge amount from the public exchequer without ascertaining the majority will and opinion of the inhabitants of Kerala a especially since the issues that are dealt with in the impugned Act in no way will affect any legal right of the State of Kerala or its inhabitants. The applicants being residents of Kerala are seriously aggrieved by the action of the State cabinet in filing this original suit spending huge amount from the public exchequer and therefore are filing this petition for impleadment as it is highly necessary in the interest of justice to plead before this Hon'ble court that the entire expense involved in this misadventure has to be realized from the members of cabinet the State of Kerala including the Chief Minister
7. That the applicants/proposed defendants have good prima facie case of violation of their rights and this Hon'ble Court may exercise equitable jurisdiction by allowing the present application permitting the applicants to be impleaded in the matter as prayed for.
8. That unless the reliefs are granted and the applicants are not allowed to implead the applicants will be subjected to great injustice and irreparable injury.

9. That the balance of convenience is clearly in favour of the applicants and of granting the said reliefs.
10. That the applicants have not filed any other petition in this Hon'ble Court or in any other Court for the same reliefs and there is no other case or adjudication relating to the matter in issue pending, other than what is mentioned above. The applicants have exhausted all other remedies and are left with no other remedies but to approach this Hon'ble Court.
11. That the balance of convenience is in favour of the applicants, since the said matter is still pending and impleadment of the applicants will not in any manner adversely affect any of the parties in the case. Instead it would enhance the assistance in the meaningful adjudication of the present case.
12. Hence, it is respectfully prayed that in the interest of justice, the applicants may be permitted to be impleaded as party defendants in the above original suit, to raise these grounds and other allied grounds that arise at the time of hearing, as otherwise the applicants would be put to irreparable loss and hardships.
13. The applicants are advised to file the present application for impleadment in the above original suit as the outcome of the above original suit might adversely affect the rights of the applicants. Hence it is just and necessary that the applicants be impleaded as party defendants in the original suit.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:



- (a) Pass an order allowing the applicants to be impleaded as party defendants in the above original suit (Dairy) No. 1648 of 2020; AND
- (b) Pass an order realizing the cost incurred by the State of Kerala in filing this original suit from the Ministers of the cabinet of the State of Kerala including the Chief Minister; AND
- (c) Pass such other order as this Hon'ble Court deems fit to grant in the interest of justice.

AND FOR SUCH ACT OF KINDNESS THE APPLICANTS AS IN DUTY BOUND SHALL EVER PRAY.

FILED BY:

**(SAJITH. P)**  
ADVOCATE FOR APPLICANTS

NEW DELHI:

DATE: 17.01.2020

