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C.M.P(MD)No.4195 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.04.2026

Pronounced on : 14.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.P(MD)No.4195 of 2026

in

S.A(MD)No.616 of 2011

Gangai Ammal (Died)

T.Revathi Priya,
W/o.R.S.Thamilselvun,
Door No.D27A, 7th Cross Street,
West Extension, Thillai Nagar,
Trichy - 620 018.

... Petitioner/Proposed 2nd Appellant

Vs.

1.Thiruchirappalli Cooperative House
Construction Society Limited,
Thiruchirappalli,
Having Office at Colony Main Road,
Thillai Nagar,
Trichy - 18.
Represented by its Secretary in-charge

2. Jothi Alamelu,
D/o.Dellirajan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.

3. Kasthuri Thilagarammal,
D/o.Dellirajan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.



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4. Poongothai,
W/o.Udhaya Narayanan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.

5. Jegan,
S/o.Udhaya Narayanan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.

6. K.Tamilselvi,
W/o.Late.Kasthuri Renganathan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.

7. Minor Dinakar,
S/o.Late.Kasthuri Renganathan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.

8. Minor Janagiraman,
S/o.Late.Kasthuri Renganathan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.

9. Minor Parkavi @ Ilavarasi,
D/o.Late.Kasthuri Renganathan,
No.6, Pudhu Vellala Theru,
Uraiyur, Trichy.

...Respondents/Respondents

*(Minor respondents 7 to 9 are represented by their
mother 6th respondent herein)*

PRAYER : Civil Miscellaneous Petition is filed under Order 22 Rule 10 r/w
Section 146 of CPC., to implead the petitioner herein as the proposed
2nd appellant in the above Second Appeal.



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For Petitioner	: Mr.M.Saravanan
For R1	: Mr.B.Sekar
For R2 to R9	: No Appearance in main S.A.

ORDER

This Civil Miscellaneous Petition is filed by the petitioner under Order 22 Rule 10 r/w Section 146 of CPC., to implead the petitioner as 2nd appellant in the second appeal.

2. The petitioner has stated reasons in the accompanying affidavit filed along with the Civil Miscellaneous Petition are as follows:

The petitioner has purchased the property measuring 1800 sq.ft. in T.S.No.63/1, Block No.13, Uraiyur, Tiruchirappalli District under two registered sale deeds, dated 12.02.2014 and 02.04.2018 from one K.Saroja. From the date of purchase, the petitioner has been in continuous possession and enjoyment of the said property by paying all taxes. During second week of March, 2026 the petitioner's vendor K.Saroja contacted her and informed that she purchased the said property from one Gangai Ammal through registered sale deed, dated 18.05.2007 and that the said Gangai Ammal filed the second appeal in S.A(MD)No.616 of 2011 and that the said Gangai Ammal died on 14.11.2012 and the legal heirs of Gangai Ammal received



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communication from their counsel stating that this appeal is listed for final hearing. The petitioner came to understand that the respondent filed the suit against the said Gangai Ammal and others for mandatory injunction, though the suit was dismissed, the respondent succeeded in appeal by judgment dated 27.04.2011. Challenging the judgment of the first Appellate Court, the said Gangai Ammal filed the present appeal. The petitioner is a bona fide purchaser and the litigation was not disclosed by the vendor to the petitioner at the time of purchase. Therefore, the petitioner is a necessary and proper party to the second appeal and she may be impleaded as the 2nd appellant. Hence, this petition is filed.

3.The 1st respondent filed a counter and strongly objected the petition and stated as follows:

The 1st respondent purchased the suit property with larger extent from the lawful owner, one Pandian, by virtue of a sale deed dated 24.01.1977 and proposed to put up a shopping complex and installed a fence closing the property. Since the defendants had put up an illegal construction in the 'B' Schedule property, the 1st respondent filed a suit in O.S.No.206 of 1991 on the file of the Principal District Munsif Court, Tiruchirappalli for permanent injunction and mandatory injunction. The suit was dismissed.

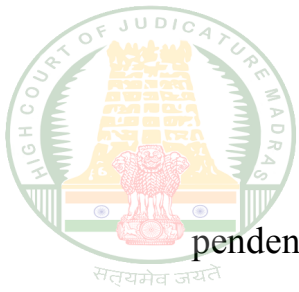


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The 1st respondent preferred an appeal in A.S.No.81 of 2004 before the Principal Sub Court, Tiruchirappalli and the same was allowed and the suit was decreed. The 3rd defendant, Gangai Ammal, preferred the present second appeal. The sole appellant Gangai Ammal of this present second appeal died on 14.11.2012. Even before filing the second appeal, the said Gangai Ammal sold the property to one K. Saroja, and it was not disclosed by her while filing the second appeal. The said K.Saroja sold the property to the petitioner on 12.02.2014 and 02.04.2018. The petitioner clearly stated that after verifying the encumbrance, she purchased the property. The sole appellant died on 14.11.2012 and her legal heirs did not take steps to implead themselves in the appeal despite notice received. The petitioner is not a legal heir of the deceased appellant Gangai Ammal. The petitioner has filed this petition beyond the period of limitation in all respects. So, the petition is not maintainable and is liable to be dismissed.

4.The learned counsel for the petitioner has submitted that the petitioner is a bona fide purchaser from her vendor K.Saroja by way of registered sale deeds dated 12.02.2014 and 02.04.2018. The petitioner was not aware of the fact that the said K.Saroja purchased the property from the appellant Gangai Ammal under a sale deed dated 18.05.2007 during



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pendency of the first appeal. The settled position that the doctrine of lis pendens is a doctrine based on the ground that it is necessary for the administration of justice that the decision of a Court in a suit should be binding not only on the litigating parties but on those who derive the title pendente lite and the provision of Section 52 of the Transfer of Property Act does not annul the conveyance or transfer otherwise, but to render it subservient to the rights of the parties to a litigation. Hence, the petitioner is a necessary party to this present second appeal. Further, the petitioner cannot take a new plea and would follow the plea of her predecessor in title and as per Order 22 Rule 10 of CPC., which permits the alienee to continue the suit. So, the petitioner may be impleaded as 2nd appellant.

5.In support of his submissions, the learned counsel relied on the following citations:

(1) (2013) 5 Supreme Court Cases 397 in the case of Thomson Press (India) Ltd., /v/ Nanak Builders & Investors (P) Ltd., wherein it is held in paragraph Nos.26, 29 and 30 as follows:

*“26.It would also be worth discussing some of the relevant laws in order to appreciate the case on hand. **Section 52** of the Transfer of Property Act speaks about the doctrine of lis pendens. **Section 52** reads as under:*



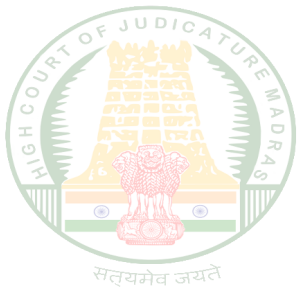
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“52.Transfer of property pending suit relating thereto. – During the pendency in any Court having authority within the limits of India excluding the State of Jammu and Kashmir or established beyond such limits by the Central Government of any suit or proceedings which is not collusive and in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under the decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose. Explanation – For the purposes of this section, the pendency of a suit or proceeding shall be deemed to commence from the date of the presentation of the plaint or the institution of the proceeding in a Court of competent jurisdiction, and to continue until the suit or proceeding has been disposed of by a final decree or order and complete satisfaction or discharge of such decree or order has been obtained, or has become unobtainable by reason of the expiration of any period of limitation prescribed for the execution thereof by any law for the time being in force.”

It is well settled that the doctrine of lis pendens is a doctrine based on the ground that it is necessary for the



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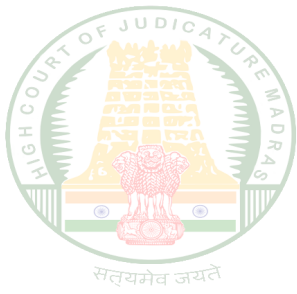


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administration of justice that the decision of a court in a suit should be binding not only on the litigating parties but on those who derive title pendente lite. The provision of this Section does not indeed annul the conveyance or the transfer otherwise, but to render it subservient to the rights of the parties to a litigation.

29.The aforesaid [Section 52](#) of the Transfer of Property Act again came up for consideration before this Court in the case of [Rajender Singh v. Santa Singh](#) and Their Lordship with approval of the principles [laid down in Jayaram Mudaliar v.Ayyaswami](#) reiterated: (Rajendar Singh case, SCC p..711 para 15)

“15.The doctrine of lis pendens was intended to strike at attempts by parties to a litigation to circumvent the jurisdiction of a court, in which a dispute on rights or interests in immovable property is pending, by private dealings which may remove the subject matter of litigation from the ambit of the court’s power to decide a pending dispute of frustrate its decree. Alienees acquiring any immovable property during a litigation over it are held to be bound, by an application of the doctrine, by the decree passed in the suit even though they may not have been impleaded in it. The whole object of the doctrine of lis pendens is to subject parties to the litigation as well as others, who seek to acquire rights in immovable property which are the subject



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matter of a litigation, to the power and jurisdiction of the Court so as to prevent the object of a pending action from being defeated.”

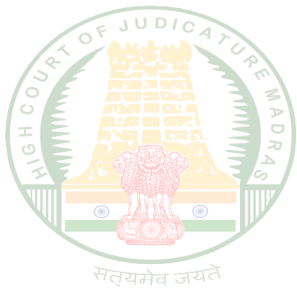
30. In the light of the settled principles of law on the doctrine of lis pendens, we have to examine the provisions of Order 1 Rule 10 of the Code of Civil Procedure. Order 1 Rule 10 empowers the Court to add any person as party at any stage of the proceedings if the person whose presence before the court is necessary or proper for effective adjudication of the issue involved in the suit.

2) 2014-3 Law Weekly 769 High Court of Madras in V.L.Dhandapani /v/ Revathy Ramachandran & Others case, it is held in paragraph Nos.2 and 13 as follows:

“2.The learned single Judge, in and by the order dated 12.01.2011, was pleased to refer the following issue to be decided by the Larger Bench as in his view, there are conflicting decisions over the same.

"Whether the transferee pendente lite is entitled to be impleaded in the suit"

13.Considering the scope of [Section 52](#) of the Transfer of Property Act, 1882, after considering all the earlier judgments, it has been held that doctrine



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of lis pendens does not indeed annul the conveyance or the transfer otherwise, but merely makes it subservient to the rights of the parties to a litigation.

Section 52 of the Transfer of Property Act, 1882, does not render transfers affected during the pendency of the suit as void and a mere pendency of the suit does not prevent one of the parties from dealing with the property constitute in the subject matter of the suit. On the contrary, it only postulates a condition that the alienation will in no manner affects the rights of the other party to the suit."

6.Per contra, the learned counsel for the 1st respondent has mainly contended that the petitioner herself stated in her affidavit that after due enquiry about encumbrance she purchased the property, so, as per Section 3 of the Transfer of Property Act, the petitioner has constructive notice of litigation. Moreover, the petitioner's vendor purchased the property from Gangai Ammal on 18.05.2007 during pendency of the first appeal filed by Gangai Ammal, who filed a second appeal after dismissal of the first appeal. The petitioner's vendor K.Saroja was not at all added as a party to the proceedings. The appellant Gangai Ammal died on 14.11.2012, and her legal heirs were not added as parties, hence, on completion of 90 days from the death of Gangai Ammal, this second appeal automatically abated.



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Hence, after a lapse of 13 years, the petitioner, who is the purchaser and vendee of the sole appellant Gangai Ammal, could not legally implead herself as a party, as the second appeal itself would be treated as abated. The second appeal itself is non-est and no right would accrue to parties without setting aside the abatement and without restoring the second appeal. The delay condonation petition U/s.5 of the Limitation Act was also not filed and no impleading petition by the legal heirs of the deceased Gangai Ammal was filed. It is for the legal heirs of the deceased Gangai Ammal to continue the second appeal. The petitioner is not the legal heir of the deceased Gangai Ammal and it is not her case either. Order 22 of CPC is a special provision that deals with the death of parties and substitution. Order 1 Rule 10 of CPC deals with adding of necessary/proper parties, which is a general provision. In case of overriding conflict, the special provision will override the general provisions. After abatement, Order 22 of CPC alone is applicable.

7.In reply, the learned counsel for the petitioner submitted that the respondents 2 and 3 are the legal heirs of Gangai Ammal, they are already on record, hence, the ruling in the Thomson Press case is applicable to the facts of this case.



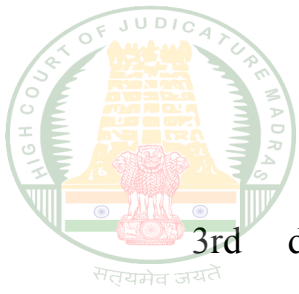
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WEB COPY 8.In re-reply, the learned counsel for the 1st respondent stated that the petitioner is well aware of the purchase of property by this 1st respondent and the petitioner has not explained the delay of 13 years. Further, the respondents 2 and 3 have not taken any legal steps despite the fact that Gangai Ammal died on 14.11.2012. The rulings relied on by the petitioner are related to a petition filed under Order 1 Rule 10 of CPC in suit proceedings, so the rulings are not applicable to this case. Hence, the petition may be dismissed.

9.Heard both sides and perused the material records in this Civil Miscellaneous Petition.

10.On hearing both sides, it is clear that the 1st respondent filed the main suit in O.S.No.206 of 1991 before the District Munsif Court, Tiruchirappalli seeking for permanent injunction and mandatory injunction against the respondents 2 to 9. After hearing both sides, the Trial Court dismissed the suit on 12.12.2003. Thereafter, the 1st respondent preferred an appeal in A.S.No.81 of 2004 before the Principal Sub Court, Tiruchirappalli and succeeded in the appeal on 27.04.2011. After that, the

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3rd defendant/Gangai Ammal preferred the second appeal in S.A(MD)No.616 of 2011 before this Court and the same is pending.

Other defendants have not preferred any appeal. During pendency of the second appeal, the appellant/Gangai Ammal died on 14.11.2012.

11. At this stage, the petitioner has filed this petition to implead her as 2nd appellant in the second appeal. The petitioner averred in the affidavit that the petitioner purchased the said property from one K.Saroja by virtue of two sale deeds dated 12.02.2014 and 02.04.2018; that the said K.Saroja told her that she (vendee of petitioner) purchased the property from Gangai Ammal during litigation and Gangai Ammal preferred the present second appeal before this Court and that the fact of litigation was suppressed by her vendor K.Saroja at the time of purchase, so she is a *bona fide* purchaser and she may be impleaded as 2nd appellant.

12. It is strongly objected by the 1st respondent that the petitioner stated that she purchased after due enquiry and due verification of encumbrance, so she has constructive notice of litigation. It is further contended that the appellant Gangai Ammal died on 14.11.2012, after a lapse of 13 years from her death, the petitioner moved this petition and that

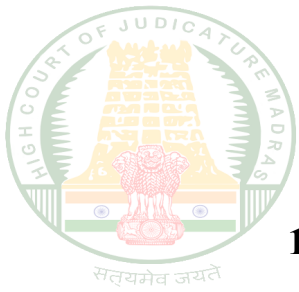


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without setting aside abatement and restoring the appeal, the petitioner cannot be impleaded as party, it is for the legal heirs of the deceased appellant/Gangai Ammal to take steps and the petitioner cannot come under the legal heir of Gangai Ammal.

13.From the records, it is very clear that the vendor of the petitioner purchased the property as early as on 18.05.2007 from the appellant Gangai Ammal, when the first appeal was pending. The said Gangai Ammal has not disclosed the fact of alienation before the Court and even at the time of the second appeal, this fact was not disclosed. Moreover, the vendor of the petitioner might have had knowledge about the case proceedings, yet she herself also had not taken steps to implead herself in the appeal. Now, the petitioner claims that her vendor suppressed the case proceedings, which is not a deciding matter in this petition. The fact remains that the sole appellant in this second appeal, namely, Gangai Ammal, died on 14.11.2012. The petitioner filed this petition after a lapse of 13 years, so admittedly the second appeal is deemed abated. In such circumstances, without setting aside the abatement and adding the legal heirs of the deceased appellant, the petitioner's claim cannot be entertained.



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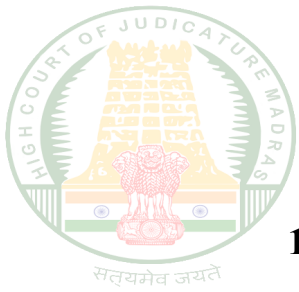
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14.Section 146 and Order XXII Rule 10 of CPC confers a right upon the legal representative of a party to the suit to be impleaded with the leave of the Court and continue the litigation. Moreover, it is a settled position that it is the Court's discretion to implead a third party purchaser at the appellate stage, that too, pending the second appeal and such impleadment is strictly governed by the doctrine of lis pendens as per Section 52 of the Transfer of Property Act. The Hon'ble Supreme Court of India and the Madras High Court have held in various cases that impleading a party in a lis pendens is not an automatic right. Lis pendens is a legal doctrine that prevents parties from disposing of property in such a way that would undermine the outcome of pending litigation. It ensures that the property remains subject to the court's decision until the litigation is resolved.

15.Section 52 of the Transfer of Property Act reads thus:

Section 52 of the Transfer of Property Act

This section prohibits the transfer of immovable property during active litigation in a manner that would adversely affect the rights of other parties involved in the suit. Any such transfer requires court approval.

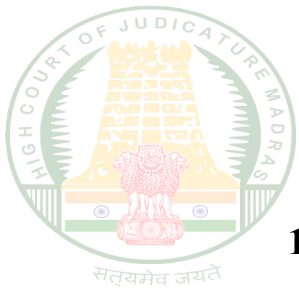


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16.The Hon'ble Supreme Court has held in Sarvinder Singh /v/ Dalip Singh case reported in (1996) 5 Supreme Court Cases 539 as

follows: [regarding Section 52 of the Transfer of Property Act.]

“6. Section 52 of the Transfer of Property Act envisages that "during the pendency in any Court having authority within the limits of India of any suit or proceeding which is not collusive and in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the right of any other party thereto under the decree or order which may be made therein, except under the authority of the court and on such terms as it may impose." It would, therefore, be clear that the defendants in the suit were prohibited by operation of [Section 52](#) to deal with the property and could not transfer or otherwise deal with it in any way affecting the rights of the appellant except with the order or authority of the Court. Admittedly, the authority or order of the Court had not been obtained for alienation of those properties. Therefore, the alienation obviously would be hit by the doctrine of lie pendens by operation of [Section 52](#). Under these circumstances, the respondents cannot be considered to be either necessary or proper parties to the suit.

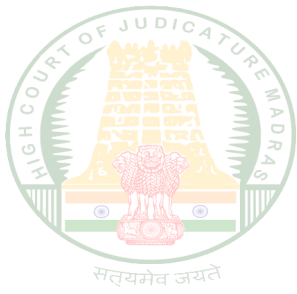


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17.Further, the Hon'ble Supreme Court has held in Vidur Impex

case reported in (2012) 8 Supreme Court Cases 384 as follows:

“43. Although, the appellants have pleaded that at the time of execution of the agreements for sale by respondent No.2 in their favour in February 1997, they did not know about the suit filed by respondent No.1, it is difficult, if not impossible, to accept their statement because the smallness of time gap between the agreements for sale and the sale deeds executed by respondent No.2 in favour of the appellants and the execution of agreement for sale by the appellants in favour of Bhagwati Developers would make any person of ordinary prudence to believe that respondent No.2, the appellants and Bhagwati Developers had entered into these transactions with the sole object of frustrating agreement for sale dated 13.9.1988 executed in favour of respondent No.1 and the suit pending before the Delhi High Court. In any case, the appellants will be deemed to have become aware of the same on receipt of summons in Suit No.161/1999 filed by respondent No.2 for annulment of the agreements for sale and the sale deeds in which respondent No.2 had clearly made a mention of Suit No.425/1993 filed by respondent No.1 for specific performance of agreement for sale



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dated 13.12.1988 and injunction or at least when the learned Single Judge of the Delhi High Court entertained IA No.625/2001 filed by respondent No. 1 and restrained respondent Nos.2 and 4 from transferring possession of the suit property to the appellants. However, in the application for impleadment filed by them, the appellants did not offer any tangible explanation as to why the application for impleadment was filed only on 4.2.2008 i.e. after 7 years of the passing of injunction order dated 22.1.2001 and, in our considered view, this constituted a valid ground for declining their prayer for impleadment as parties to Suit No.425/1993....”

18. A perusal of the case records of this case on hand, makes it very clear that the sole appellant Gangai Ammal died on 14.11.2012. The petitioner has filed this petition on 23.03.2026, ie., after a lapse of 13 years. There is no valid explanation offered by the petitioner for the said long delay. The petitioner has averred in her affidavit that her vendor Saroja informed her that Gangai Ammal filed the above appeal before this Court in respect of the very same property and that the legal heirs of Gangai Ammal had received communication from their counsel stating that the appeal is



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listed for final hearing. The petitioner has not stated when her vendor made the said communication to her and when the legal heirs of Gangai Ammal were communicated by their counsel. The proceedings of this appeal reveal that the counsel for the appellant reported about the death of Gangai Ammal before this Court on 04.06.2024. Therefore, without setting aside abatement, without restoring the appeal and without impleading the legal heirs of the deceased appellant Gangai Ammal, the petitioner, who is a purchaser lis pendens, cannot seek impleadment in this appeal as rightly argued by the 1st respondent. So, whether the petitioner is bona fide purchaser could not be decided at this stage.

19. In allowing this petition would further complicate the issue of the case, as the suit was filed in the year 1991 and now the second appeal is pending. It is pertinent to note here that except the appellant Gangai Ammal, the other defendants have not preferred any second appeal or sailed along with said Gangai Ammal. Hence, the petitioner has not shown a valid explanation. Further, the rulings relied on by the petitioner are related to the impleading petitions which were filed under Order 1 Rule 10 of CPC in the original suit proceedings. Whereas, the case on hand is pendency of a second appeal. So, the rulings are not applicable to the facts of this case.



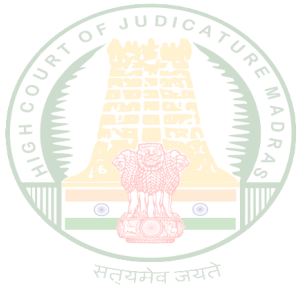
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Considering the above facts and circumstances, the petitioner cannot be added as 2nd appellant to this second appeal. Therefore, this Court is not inclined to allow this petition. However, the petitioner is at liberty to work out her remedy by way of filing separate proceedings.

20.In the result, this Civil Miscellaneous Petition is dismissed. The petitioner is at liberty to work out her remedy by way of filing separate proceedings.

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VSD

Pre - Delivery Order made in
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in
S.A(MD)No.616 of 2011

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