

CMP.No.4711 of 2019
and
S.A.No.361 of 2013

P.RAJAMANICKAM.J.,

This petition has been filed by the third parties under Order I Rule 10 (2) CPC read with Order XXII Rule 10 CPC to implead them as respondents 2 to 4 in the above Second Appeal.

2. The learned counsel for the petitioners has submitted that during pendency of the first appeal i.e., on 15.07.2010, the petitioners had purchased the suit property under two documents vide Doc.Nos.7699 and 7701/2010 on the file of the Sub-Registrar, Kunrathur, from the second respondent herein. She further submitted that the first appeal was dismissed on 09.12.2011 confirming the judgment and decree of the trial Court. She further submitted that as against the judgment and decree passed by the first Appellate Court, the first respondent herein has filed the present Second Appeal. She further submitted that since the petitioners herein have purchased the suit properties, the second respondent is not showing the any interest to contest the Second Appeal and hence, it has become necessary for the petitioners to implead themselves as respondents 2 to 4 to protect their interest and therefore, she prayed to allow this petition.

3. Per contra, the learned counsel for the first respondent/appellant has submitted that the petitioners have not produced any document to show that they have purchased the suit property from the second respondent. He further submitted that according to the petitioners, they have purchased the suit property during pendency of the first appeal and in such a case, they should have filed a petition to implead themselves in the first appeal itself and after disposal of the first appeal, and after a lapse of nearly 9 years, the petitioners herein have come forward with this petition to implead themselves as parties. He further submitted that the encumbrance certificate reveals that there are certain contradictions in the consideration which have been passed for purchasing the properties by the petitioners and therefore, he strongly opposed this petition.

4. Eventhough the petitioners have not filed any document to show that they have purchased the suit property from the second respondent, in para-5 of the counter, the first respondent /appellant has categorically admitted that the petitioners herein have purchased the suit property under the sale deed dated 15.07.2010 from the Power Agent of the second respondent herein. So, it is clear that the first respondent has not disputed the fact that the petitioners herein have purchased the suit property from the second respondent on

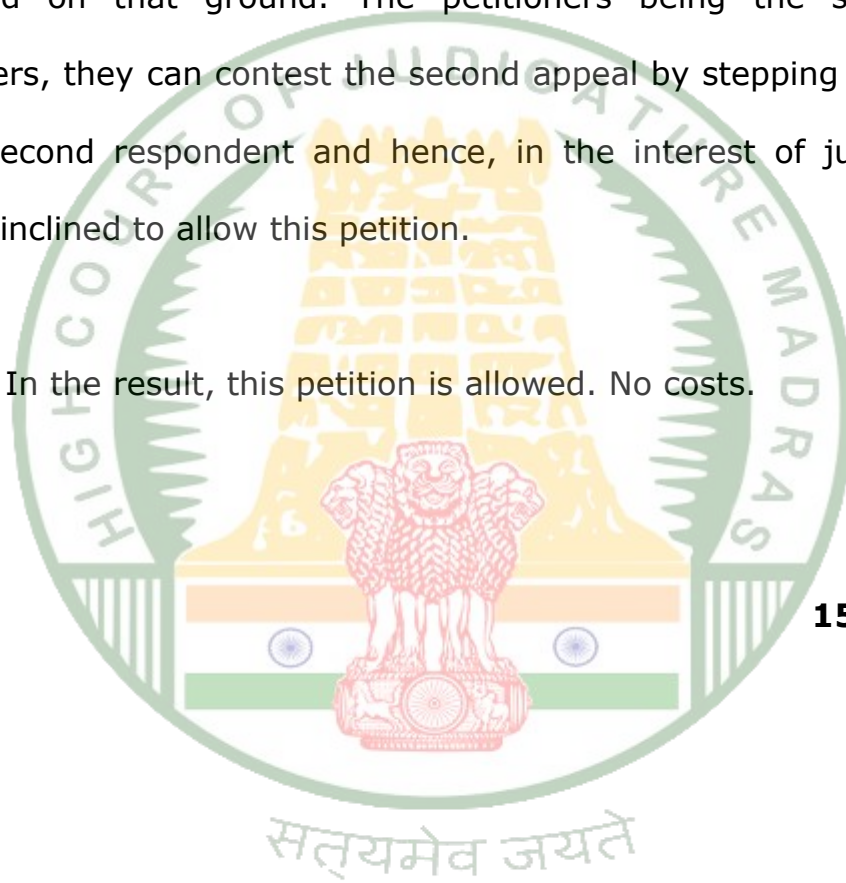
15.07.2010. It is also clear that the first appeal was dismissed confirming the judgment and decree passed by the trial Court. Under the said circumstances, merely because there is a delay in filing petition to implead themselves as parties, the petition cannot be dismissed on that ground. The petitioners being the subsequent purchasers, they can contest the second appeal by stepping into shoes of the second respondent and hence, in the interest of justice, this Court is inclined to allow this petition.

5. In the result, this petition is allowed. No costs.

15.04.2019

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