

A.No.1923 of 2020
in C.S.No.496 of 2019

N. SATHISH KUMAR, J.

This application has been filed to implead the proposed respondent as 6th defendant in the suit on the ground they have purchased the property prior to the suit.

2. The suit has been filed challenging the settlement deed executed by the defendants. It appears that prior to filing of the suit, the property has been transferred in the name of proposed respondent/6th defendant. It is the contention of the learned counsel for the defendants that unless the proposed respondent/6th defendant is made as a party they do not have right to defend. Hence it is necessary to implead.

3. An objection has been raised by the other respondents on the ground that the application has to be decided only before the Master and not before this Court. Further, the applicant does not say whether or not the proposed party is a necessary party to decide the issue. It is further submitted that the application has been filed under the wrong provision.

Hence the application is not maintainable.

4. Heard both sides and also perused the counter affidavit.

5. The suit has been filed as indicated above seeking declaration. Admittedly the property has been now transferred to the 6th defendant/proposed party herein. Therefore, when the issue between the parties particularly pertaining to the immovable property which was merely subject matter of the suit which was already transferred in the name of the proposed party, this Court is of the view that the proposed party is a necessary party to be added as a defendant and without his presence, there cannot be any proper adjudication in deciding the rights of the parties in the lis.

6. Accordingly the petition is allowed and plaintiffs are directed to carryout the necessary amendment and file a amended plaint copy.

7. Post on 30.11.2020.

03.11.2020

dpq

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