

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 6TH DAY OF JANUARY 2020

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.No.9809 of 2018
in
C.S. No.657 of 2018

1. K.A.Velayutham (87 years)
S/o. Karavattu Ayyappan
No.17, Balakrishnan Road, Mylapore,
Chennai 600 004. ...Plaintiff

VS

K.V.Vijayaraghavan,
S/o K.A.Velayutham,
No.4, Dr.Nair Road,
T.Nagar, Chennai - 600 017. ...Defendant

A.No.9809 of 2018:-

1.Mrs.V.S.Radhalakshmi, Age 61/Y,
W/o Late Srinivasan,
Vallathuparambil, (P.O),
Karuvannur, Irijalakuda Via,
Thrissur, Kerala State.

2.Mrs.K.V.Mallika, Age 59/Y,
W/o Dr.V.K.Viswambharan,
Appasamy Towers,
B-16, Thyagaraya Road,
T-Nagar, Chennai - 600 017.

3.Mrs.K.V.Ambika, Age 57/Y,
W/o Dr.T.D.Muraleedharan,
Thekkethara House,
Plot No:155, Hill Gardens,
Kuttanellore (P.O),
Thirssur, Kerala State.

...Applicants/
Proposed Defendants

VS

1.Mr.K.A.Velayutham,
S/o Karavattu Ayyappan,
No.17, Balakrishnan Road,
Mylapore,
Chennai - 600 004.

...Respondent/Plaintiff

2.Mr.K.V.Vijayaraghavan,
S/o K.A.Velayutham,
No:14, Dr.Nair Road,
T.Nagar, Chennai - 600 017. ...Respondent/Defendant

Application praying that this Hon'ble Court be pleased to implead the Applicants as Defendants 2 to 4 in the suit in Tr.C.S.No.657/2018.

Application coming on this day before this Court for hearing, the Court made the following order:

The applicants are the daughters of K.A.Velayutham, who is the plaintiff in C.S.No.657 of 2018. Initially the suit is filed by the plaintiff as against K.V.Vijayaraghavan, who is none other than the son of the plaintiff. The plaintiff and his son are the partners of the firm M/s.Ambika Appalam company. Most of the suit properties were purchased in the name of the partnership firm.

2. The plaintiff executed a settlement deed on 07.05.2018 in favour of the defendant in respect of properties held in the name of firm, which was dissolved on 01.04.1992. The said settlement deed and the properties covered under the settlement deed is the subject matter in the present suit. In the said suit, the applicants, who are the daughters of K.A.Velayutham/plaintiff, have taken out an application to implead themselves as defendants on the premise that the property though purchased in the name of firm M/s.Ambika Appalam company, it was held as a family property and the parents were intended to share the property with all their sons and daughters. However, the defendant, who is one of the sons of the plaintiff acted

against the interest of brother and sisters, pressurised the plaintiff and got the properties settled in his favour. Therefore, they are the necessary parties in the suit to establish the right in the properties.

3. The plaint averments clearly indicates that these properties were purchased by the plaintiff in the name of the partnership firm, in which the defendant was one of the partners and earlier in C.S.No.848 of 2000 filed against one A.Sundari, this Court has declared the property belongs to the firm M/s.Ambika Appalam company. The settlement deed dated 07.05.2008, which is under challenge admittedly executed by the plaintiff and he has been a dominus litis and a person who has allegedly acquired the property is contesting the suit. The applicants claim of right over the property only through the plaintiff. They are neither necessary parties nor proper parties, though they are daughters of the plaintiff. Hence this application devoid of merit.

4. In the result, the application is dismissed.

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Sd./-G.J.J
06.01.2020

//Certified to be true copy//
Dated at Madras this the day of 2020.

JJ 13/01/2020

COURT OFFICER(O.S.)