

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

**C.R.P.(PD).No.3059 of 2015**

**and**

**MP.No.1 of 2015**

M.Sekar

..Petitioner

Vs.

1.N.Krishnan

2.S.Mohan

..Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, praying to allow the above Civil Revision Petition and set aside the order and decretal order dated 12.03.2015 passed in I.A.No.17 of 2015 in O.S.No.289 of 2011 on the file of the Principal District Munsif, Chidambaram.

For Petitioners : Dr.P.Jagadeesan

For Respondents : Mr.A.Muthukumar for R2

R1- No appearance

**ORDER**

This Civil Revision Petition is directed as against the fair and decretal order in I.A.No.17 of 2015 in O.S.No.289 of 2011 on the file of the Principal

District Munsif, Chidambaram, thereby allowing the petition filed by the respondents herein to implead the 2<sup>nd</sup> respondent as one of the plaintiff in the main suit.

2. The 1<sup>st</sup> respondent is the original plaintiff, who had filed the suit for declaration and recovery of possession in respect of the suit schedule property. Pending suit, the 1<sup>st</sup> respondent herein sold out the entire suit schedule property in favour of the 2<sup>nd</sup> respondent herein by sale deed dated 09.10.2014. Thereafter, he became the absolute owner of the suit schedule property and hence, he has to prosecute the suit as the purchaser of the entire suit property. Aggrieved by the same, the petitioner viz., the defendant preferred this Civil Revision Petition.

3. The learned counsel for the 2<sup>nd</sup> respondent submitted that the 1<sup>st</sup> respondent/ sole plaintiff now died and as such the 2<sup>nd</sup> respondent being the purchaser of the entire suit schedule property has to prosecute the suit filed by the 1<sup>st</sup> respondent herein. In support of his contentions, the learned counsel for the 2<sup>nd</sup> respondent would rely upon the judgment of this court in ***V.L.Dhandapani and others vs. Revathy Ramachandran and others*** reported in 2014 (4) CTC 814, wherein, this court has observed as follows:-

To the same effect is the decision of this Court in *Amit Kumar Shaw v. Farida Khatoon* (2005) 11 SCC 403 where this Court held that a transferor pendente lite may not even defend the title properly as he has no interest in the same or collude with the plaintiff in which case the interest of the purchaser pendente lite will be ignored. To avoid such situations the transferee pendente lite can be added as a party defendant to the case provided his interest is substantial and not just peripheral. This is particularly so where the transferee pendente lite acquires interest in the entire estate that forms the subject matter of the dispute. This Court observed:

"16. The doctrine of *lis pendens* applies only where the *lis* is pending before a court. Further pending the suit, the transferee is not entitled as of right to be made a party to the suit, though the court has a discretion to make him a party. But the transferee pendente lite can be added as a proper party if his interest in the subject-matter of the suit is substantial and not just peripheral. A transferee pendente lite to the extent he has acquired interest from the Defendant is vitally interested in the litigation, where the transfer is of the entire interest of the

*Defendant; the latter having no more interest in the property may not properly defend the suit. He may collude with the Plaintiff. Hence, though the Plaintiff is under no obligation to make a lis pendens transferee a party, under Order 22 Rule 10 an alienee pendente lite may be joined as party. As already noticed, the court has discretion in the matter which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests. The Court has held that a transferee pendente lite of an interest in immovable property is a representative-in-interest of the party from whom he has acquired that interest. He is entitled to be impleaded in the suit or other proceedings where the transferee pendente lite is made a party to the litigation; he is entitled to be heard in the matter on the merits of the case."*

4. The above case is squarely applicable to the case on hand since the 2<sup>nd</sup> respondent purchased the entire suit property from the 1<sup>st</sup> respondent, now the 1<sup>st</sup> respondent is also no more. Therefore, the trial court rightly allowed the petition. This court do not find any infirmity or illegality in the order

passed by the trial court. Hence, this Civil Revision Petition is **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

5. It is also seen that the suit is of the year 2011, as such the counsel for the respondent prays for a direction for speedy disposal of the main suit. Considering the above submission and the fact that the suit is of the year 2011, the trial court is directed to complete the trial within a period of twelve (12) months from the date of receipt of a copy of this order.

06.01.2021

dsa

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

To  
The Principal District Munsif, Chidambaram.

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**G.K.ILANTHIRAIYAN,J.**

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