

A.No.3415 of 2021
in
C.S.No.738 of 2002

R.SUBRAMANIAN, J.

This application has been filed by the applicant, seeking to implead himself in the suit, which is one for declaration that the one time settlement of Rs.150.00 Lakhs dated 24.05.1999 by way of discharge as full and final settlement arrived between the plaintiff and the 1st defendant towards the loan amounts advanced by the 1st defendant to the plaintiff from 1993 to 1996 as valid, binding and enforceable between the parties and for a consequential injunctive reliefs.

2.Pending suit, the sole plaintiff died. His daughter and 2nd wife were impleaded as 2nd and 3rd plaintiffs. The applicant is the son of the deceased plaintiff. He would claim that as a son he is entitled to share in the properties of his father and therefore, he is a necessary party to the suit. The 1st defendant and the 2nd plaintiff in the suit do not have any objection for this application being allowed. However, the 3rd plaintiff, who is the 2nd wife of the deceased sole plaintiff would resist the application contending that the applicant had given up his rights including his right to inherit the estate of his father in a compromise entered into in C.S.No.118 of 1996 and therefore, he is not a necessary party to the suit. The said memo of compromise has also been produced.

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3.No doubt, the compromise document reads that the plaintiffs therein namely, the applicant, his wife and his children have relinquished their rights to the properties of the father including the right to inherit. It is clear to my mind that the relinquishment of the right to inherit being opposed to Section 6 of the Transfer of Property Act is invalid. Therefore, the claim that the applicant as the son of Rajabathar has no right to succeed to the property is not acceptable. The relationship having been admitted, I do not think there is any impediment for impleading the applicant as a defendant in the suit. This application is therefore, allowed, the applicant is impleaded as 3rd defendant in the suit.

4. The learned counsel for the 2nd plaintiff is required to carry out the necessary amendments consequent upon the impleading on or before 08.10.2021.

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28.09.2021

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