



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.01.2021

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THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

CRP(MD)No.840 of 2014

and MP(MD) No.1 of 2015

WEB COPY

1.Avudaiammal
2.Ravichandra
3.Pitchaiammal
4.Muppidathi
5.Marimuthu
6.Gomathinayagam ..Petitioners 1 to 6/Respondents/Plaintiffs

Vs.

1.Karthick ..1st Respondent/Petitioner/
Proposed 3rd defendant
2.Subramanian
3.Gurusamy Moopanar ...Respondents 2 & 3/Respondents 7 & 8/
Defendants 1 & 2

PRAYER:- Civil Revision Petition is filed under Article 227 of constitution of India against the fair and decreetal order passed in I.A.No.76 of 2013 in O.S.No.49 of 2011 dated 27.08.2013 on the file of the Sub Court, Sankarankovil.

For Petitioners : Mr.R.T.Arivukumar
For R1 : Mr.F.X.Eugene

O R D E R

The plaintiffs in O.S.No.49 of 2011 are on revision. Challenge is to the order impleading the petitioner in I.A.NO.76 of 2013 as a party defendant in the suit.

2. The suit is one for partition and separate possession of the plaintiffs' 6/7th share in the suit properties, for mandatory injunction directing the removal of certain constructions made by the second defendant and for other reliefs. Pending suit, the second defendant sold his share in the suit property to the proposed party namely the petitioner in I.A.No.76 of 2013. Upon purchase, the petitioner in I.A.No.76 of 2013 namely the first respondent herein filed the above application seeking to implead himself. This was opposed by the plaintiffs contending that the suit being one for partition between family members, the third party could not be impleaded. It was also contended that the first respondent who is a *pendente lite* purchaser is not entitled to



seek impleadment. The trial court allowed the application and hence the revision.

3. I have heard Mr.R.T.Arivukumar, learned counsel appearing for the petitioners and Mr.F.X.Eugene, learned counsel for the first respondent.

4. Mr.R.T.Aruvukumar, learned counsel for the petitioners would strenuously contend that the trial court was not right in allowing the application for impleading against the wish of the plaintiffs. He would also point out that the purchase is pending suit and therefore, the first respondent is not a *bonafide* transferee.

5. I have heard the submissions of the learned counsel on both sides.

6. The suit is one for partition and mandatory injunction. The relief of mandatory injunction is directed against the second defendant in the suit. The first respondent claims to be the purchaser from the second defendant and therefore he is essentially interested in the progress of the suit. The Hon'ble Supreme Court has held that even *pendente lite* purchasers can be impleaded in suits considering the nature of relief that has been claimed in the suit. The law is by now well settled that a *pendente lite* purchaser can also seek impleadment in the suit for partition so as to prevent his interest being bartered away by the parties.

7. I do not see any illegality or irregularity in the order of the trial court allowing the application filed under Order 1 Rule 10(2) C.P.C. This revision therefore fails and accordingly the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM



To:

1.The Sub Judge, Sankarankovil.

2.The Section Officer VR Section,
Madurai Bench of Madras High Court,
Madurai(2 copies).

+1 CC to M/s.F.X.EUGENE, Advocate (SR-886[F] dated 18/01/2021)

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TR(10.02.2021) 3P 5C