



C.M.P.No.39 of 2015
in A.S.No.569 of 1999

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S.S. SUNDAR, J.
and
N. MALA, J.

[Order of the Court was made by **S.S. SUNDAR, J.**]

This petition is filed to implead the petitioner as 15th respondent in A.S.No.569 of 1999.

2.The facts as set out in the affidavit filed in support of this petition are as follows :

The petitioner is a Company which had purchased an extent of 30 acres from one Mr.D.K.Sekar, his wife and children, under different sale deeds dated 23.04.2001. The property, according to the petitioner, is in possession and enjoyment of the petitioner, as per the sale deeds. It is the case of the petitioner that the property comprised in Survey No.168/3E/1A/1A/1C/2B which was originally part of Survey No.168 at Pattipulam Village, Chengalpattu Taluk, Kanchipuram District, stood in the name of Mr.Selvaraja Mudaliar, including a Trust by name Alawandar Charities. By a registered sale deed dated 22.09.1950, it is



C.M.P.No.39 of 2015
in A.S.No.569 of 1999

stated that the property was sold by the said Mr.Selvaraja Mudaliar in favour of the petitioner's vendor by name Kulasekaran alias Sekar. It is the case of the petitioner that he purchased the property from the said Kulasekaran alias Sekar who in turn had purchased the property from the said Mr.Selvaraja Mudaliar.

3.The said Mr.Selvaraja Mudaliar along with several others filed a suit in O.S.No.76 of 1992 for partition and separate possession of their respective shares in the suit property as a joint owner. The suit came to be dismissed by virtue of a common judgment in O.S.No.76 of 1992, which was heard and disposed of along with other suits which were also pending on the file of the Sub-Court, Chengalpattu. As against the judgment and decree of the trial Court in O.S.No.76 of 1992, the above appeal in A.S.No.569 of 1999 has been preferred by some of the plaintiffs, namely, plaintiffs 3, 4, 5, 7 to 10 in the suit in O.S.No.76 of 1992. The said Mr.Selvaraja Mudaliar, who is the 6th plaintiff in the suit in O.S.No.76 of 1992, has not preferred any appeal.



C.M.P.No.39 of 2015
in A.S.No.569 of 1999

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4.Now, the present petition is filed by the petitioner who claims title on the basis of the sale deed obtained from one Kulasekaran @ Sekar on 23.04.2001. The petitioner claims title on the basis of a sale deed obtained from a third party to the suit. It is to be noted that the petitioner's vendor is not a party to the suit and the property was purchased by the petitioner's vendor by a sale deed dated 22.09.1950, long before the filing of the suit. Therefore, the judgment and decree in O.S.No.76 of 1992 is not binding on the petitioner or his vendor who are not parties to the suit.

5.It is well settled that the scope of litigation cannot be enlarged in an appeal by impleading a party who may have an independent cause of action to claim a right and does not claim under any one of the parties to the litigation. In that view of the matter, this Court is unable to entertain this petition.

6.Learned counsel appearing for the petitioner relied upon the orders of this Court in W.P.No.10111 of 2002 filed by the petitioner and



C.M.P.No.39 of 2015
in A.S.No.569 of 1999

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another writ petition in W.P.No.16434 of 2001 filed by his vendor. The observations made by this Court in those writ petitions were only with an intention to preserve the right of the petitioner to go before the Civil Court to establish their independent right. That does not give them any right to get any relief in the present suit where the petitioner's vendor or vendor of the petitioner's vendor is not a party. When the petitioner's vendor claims title on the basis of the sale deed of the year 1950 and he is not a party in the suit filed in the year 1992, it may be open to the petitioner or his vendor to establish their independent right by filing separate suit. In the present appeal, the petitioner cannot be allowed to get himself impleaded so as to decide his independent title on the basis of the sale deed stated to have been obtained from one of the parties to the lis.

7. Therefore, this Civil Miscellaneous Petition is dismissed.

(S.S.S.R., J.) (N.M., J.)
16.11.2022
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S.S. SUNDAR, J.



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C.M.P.No.39 of 2015
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