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C.M.P. No.2535 of 2022 in  
O.S.A.No.180 of 2019

**C.M.P. No.2535 of 2022 in**  
**O.S.A.No.180 of 2019**

**M.DURAIWAMY, J.**  
**and**  
**T.V. THAMILSELVI, J**

(Order of the Court made by M.DURAIWAMY,J.)

The petitioner/third party has filed the above petition seeking to implead him as the 6<sup>th</sup> respondent in the appeal.

2. It is not in dispute that the proposed party is the son of the respondents 3 and 4. Admittedly, the petitioner was not a party to the suit sale agreement dated 29.04.2006. Subsequently, when the suit in C.S.No.121 of 2007 was filed by the respondents 1 and 2 for specific performance, it was brought to the notice of this court that the suit was dismissed for non prosecution on 07.11.2014 and was restored to file by an order passed in the Original Side Appeal in O.S.A.No.49 of 2016, dated 11.10.2017. It has been alleged by the petitioner that during the period between 07.11.2014 and 11.10.2017, a settlement deed was



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executed by the 3<sup>rd</sup> respondent on 11.04.2016 in favour of the petitioner/third party. In these circumstances, the petitioner contended that he is a proper and necessary party for proper adjudication of the matter.

3. Mr.V.Selvaraj, learned counsel appearing for the respondents 1 and 2/plaintiff has no objection for impleading the proposed party as the 6<sup>th</sup> respondent in the appeal.

4. Mr. H.Karthi Seshadri, learned counsel appearing for the 3<sup>rd</sup> respondent/1st defendant submitted that since the 3<sup>rd</sup> respondent is contesting the appeal, the proposed party is not a necessary party.

5. Mr. M.Uma Shankar, learned counsel appearing for the petitioner/third party submitted that the petitioner shall not file any written statement and also that he will not seek for remand of the matter on the ground that he has been impleaded only in the above appeal. The learned counsel also made an endorsement to that effect in the papers.



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6. Since the learned counsel for the respondents 1 and 2/plaintiffs have no objection for impleading the petitioner as the 6<sup>th</sup> respondent, the petitioner is impleaded as the 6<sup>th</sup> respondent in the above Original Side Appeal. However, the submission and the endorsement made by the learned counsel for the petitioner is recorded and we make it clear that the petitioner shall not be permitted to file any written statement or seek for remand of the matter on the ground that he has been impleaded only in the Original Side Appeal.

With these observations, this petition is ordered. The Registry is directed to carry out the amendment in the papers. Post the Original Side Appeal on 07.06.2022.

[M.D., J.] [T.V.T.S., J.]  
23.03.2022

Rj



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