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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)No.599 of 2021
& CMP.No.5172 of 2021

1.Gayathiri
2.K.Baskaran

...Petitioners

Vs

1.G.Anandan
Muthammal (died)
2.A.Saravanan
3.A.Ramaraj
4.N.Manavalan
5.M.Kuppammal
6.Manila
7.Balachandar
8.P.Neelamegam
9.S.Aseena
10.P.Malliga
11.P.Venkatesan
12.V.Viruthambal
13.R.Anthoniraj
14.D.Rajamanickam
15.P.Thangam
16.P.Muthu



17.K.Kadirvel
18.S.Annadurai
19.V.Durai
20.V.Lakshmanan
21.A.Malliga
22.Annapoorani

...Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 10.11.2020 made in I.A.No.376 of 2016 in O.S.No.108 of 2007 on the file of the learned District Munsif Court, Sholinghur.

For Petitioner	:	Mr.P.Krishnan
For R6 & R7	:	Mr.A.Gouthaman

ORDER

In a suit for partition and permanent injunction in O.S.No.108 of 2007 pending on the file of District Munsif Court, Sholinghur, the plaintiffs had obtained an order of injunction against the defendants against alienation of the suit property Vide order in I.A.No.207 of 2007 dated 28.04.2008. However, defying the order of injunction, the fifth defendant executed a General Power of Attorney in four of the proposed ninth defendant. Subsequently, the proposed ninth defendant in turn sold it to third parties. To bring on record the third party purchasers/proposed-defendants 9 to 22, the



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plaintiffs have taken out I.A.No.376 of 2016. This however, came to be dismissed and it is in challenge.

2.Heard both sides. While a transfer *pendente lite* is not legally barred, the safety of the right and interest of any such *pendente lite* purchaser depends largely on the diligence and the integrity of their vendor, since it may be the responsibility of the vendor to protect the title of his purchaser, but when he fails to do the same, the *pendente lite* purchaser's interest becomes perilous. It is therefore, always advisable that such *pendente lite* purchasers are impleaded as per the ratio in ***Rajendran Vs.Mohanambal*** [2018 (6) CTC 483]. In is therefore, in the best interest of the proposed parties, to get themselves impleaded.

3.It is also brought to the notice of the Court an Application in I.A.No.244 of 2016, which the plaintiffs have taken out under Order 39 Rule 2A CPC, is kept pending without a decision. The learned counsel for the plaintiffs/revision petitioner submitted inasmuch as the order of the Court has been breached, the very sale deed that the first defendant had executed in



favour of the fifth defendant itself has to be set aside. This issue is left open for the trial Court to address.

4.This Civil Revision Petition is allowed and the order passed by the District Munsif Court, Sholinghur is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

5.This Court is satisfied all the proposed parties have entered appearance and it is their turn to file written statement before the trial Court within the statutorily stipulated period. Since the suit is in its 15th year of its institution, the trial Court is required to show utmost urgency in disposing of the matter and at all times, is required to dispose it on or before 30.09.2022 and the trial Court is also required to provide a fortnightly report as to the progress it has made in this case.

11.04.2022

Index : Yes/No

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To

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District Munisf Court, Sholinghur.



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N.SESHASAYEE, J.,

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