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C.R.P.No.4777 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 08.12.2022

CORAM

**THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

C.R.P.No.4777 of 2015  
and MP.No.1 of 2015

1.T.M.Anbarasan  
Son of Mohalingam  
Rep.by power agent  
Mr.C.N.Ramachandran  
No.47, Muslim Street  
Kundrathur, Chennai-69.

2.A.Tamil Maran  
Son of T.M.Anbarasan  
Rep.by power agent  
Mr.C.N.Ramachandran  
No.47, Muslim Street  
Kundrathur, Chennai-69.

... Petitioners/Respondents/  
Proposed defendants

.Vs.

1.Appuchetty Vagaiyaras  
Fishermen of the  
Palavakkam Kuppam  
Rep.by G.Pushpanathan  
No.4/148, No.4/267, Palavvakkam  
Kuppam, Chennai 600 041.

...Respondent/  
1<sup>st</sup> Respondent/  
Plaintiff

2.P.Sudhakar Rao

3.Rajendran

4.Geetha Murthy



C.R.P.No.4777 of 2015

5.Pugzhenthi

6.Kuppusamy

7.B.Vasudevan

8.Mrs.V.Thilakam

.. Respondents/

Respondents 2 to 8

Defendants 1 to 7

9.Prudhivi Venkata Mohanakumari

10.Prudhivi Udayakumar

11.Macharla Sirisha

**(R9 to R11 brought on record as LR's of the deceased R2  
viz., Sudhakar Rao vide Court order dt.18.04.2022 made  
in CMP No.680 to 682 of 2017 in CRP.No.4777/2015 by JNBJ)**

**Prayer:-** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 01.09.2015 in I.A.No.1660 of 2011 in O.S.No.226 of 2001 on the file of learned Additional District Munsif Court, Alandur.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.V.Ramana Reddy  
for R1

Mr.S.Ramesh  
for R7 & R8

M/s.KM.Mohamed Ziauddin  
for R9 to R11

### **ORDER**

This Civil Revision Petition has been filed by the petitioners against the dismissal order in I.A.No.1660 of 2011 in O.S.No.226 of 2001 by the Additional District Munsif, Alandur, through fair and final order dated 01.9.2015.



C.R.P.No.4777 of 2015

WEB COPY

2.The 1<sup>st</sup> respondent/plaintiff filed a suit in O.S.No.226 of 2001, seeking for the relief of declaration of title and for permanent injunction. Initially, the suit was decreed ex-parte on 07.11.2009. The petitioners purchased the suit property from the 1<sup>st</sup> defendant by means of two registered sale deeds dated 14.07.2006 registered as Document Nos.4294 and 4295. After the ex-parte decree was passed, an attempt was made to take over the suit property. Immediately, on coming to know of the same, petition was filed by the defendants to set aside the ex-parte decree and the ex-parte decree was also set aside.

3.The petitioners who had purchased the suit property from the 1<sup>st</sup> defendant filed an application in I.A.No.1660/2011, under Order 1 Rule 10 (2) of CPC., to implead themselves as the 8<sup>th</sup> and 9<sup>th</sup> defendants in the suit. This application was dismissed by an order dated 01.09.2015 and aggrieved by the same, this Civil Revision Petition has been filed before this Court.

4.Heard Mr.N.Manokaran, learned counsel for the petitioners, Mr.V.Ramana Reddy, learned counsel for R1, Mr.S.Ramesh, learned counsel for R7 and R8 and M/s.KM.Mohamed Ziauddin, leardfor R9 to R11.



5.The short question that arises for consideration in the present Civil Revision Petition is as to whether the petitioners are proper or necessary parties in this suit, since they have stepped into the shoes of the 1<sup>st</sup> defendant by purchasing the suit property. The Court below has dismissed the application mainly on the ground that the plaintiff is the *dominus litus* and it is for the plaintiff to decide as to who should be added as the defendant and the petitioners cannot compel the plaintiff to add them as parties to the suit. The Court below also gave a finding to the effect that there is lack of bonafide on the part of the petitioners and hence, proceeded to dismiss the impleading application.

6.The right of a subsequent purchaser to get himself impleaded in a suit has been sufficiently dealt with by the Apex Court in the following judgements:

- a) 2012 (7) SCC 738 reported in *A.Nawab Hohn & Ors .Vs. V.N.Subramaniam.*
- b) 2013 (5) SCC 397 reported in *Thomson Press Ltd., .Vs. Nanak Builders*
- c) 2014(4) CTC 814 reported in *V.L.Dhandapani and Ors .Vs. Revathy and Others*

7.It is clear from the above judgments that a transferee pendente lite can also be added as a party to the suit and the entitlement will depend upon the facts and circumstances of each case. The 1<sup>st</sup> respondent/plaintiff has filed a comprehensive suit seeking for the relief of declaration and permanent injunction and also for recovery of possession. The petitioners have purchased the suit property from the 1<sup>st</sup> defendant and sale per se cannot be held to be void and the scope of Section 52 of the



C.R.P.No.4777 of 2015

Transfer of Property Act, 1882, only makes the sale, subject to the final result in the suit. Hence, the petitioners are proper parties in the suit since the decree passed in the suit will directly affect the interest of the petitioners. In any case, the petitioners must be brought in as party to the suit to avoid multiplicity of proceedings. It is true that the plaintiff is the *dominus litus* and he has to decide as to who should be added as a defendant. However, when a Court finds that a party is necessary or a proper party and in a suit, in the absence of plaintiff taking any efforts, based on the application filed by the party concerned, the Court can and add them as a party in the suit.

8.In view of the above, the fair and final order passed by the Court below requires the interference of this Court and accordingly, the same is set aside. It is brought to the notice of this Court that the suit is being adjourned from time to time in view of the interim order passed by this Court while entertaining this Civil Revision Petition. The suit is of the year 2001 and hence, necessary directions can be issued by this Court for earlier disposal of the suit.

9.This Civil Revision Petition is allowed and there shall be a direction to the



C.R.P.No.4777 of 2015

petitioners to file the written statement within a period of **four weeks** from the date of receipt of a copy of this order. The Court below is directed to dispose of the suit in O.S.No.226 of 2001, within a period of **six months** from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

**08.12.2022**

KP  
Internet  
Index:Yes/No  
Speaking Order: Yes/No



C.R.P.No.4777 of 2015

To

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Additional District Munsif Court,  
Alandur.

**N.ANAND VENKATESH. J.,**

KP



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C.R.P.No.4777 of 2015

**C.R.P.No.4777 of 2015**

**08.12.2022**