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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Eighth day of February Two Thousand Twenty Two

PRESENT

THE HON`BLE DR.JUSTICE G.JAYACHANDRAN

CMP.No.18703 of 2016

in AS.No.301 of 2011

TMT.S.JAYA

[PETITIONER]

Vs

1 G.S.PADMAVATHYBAI

[RESPONDENTS]

2 G.S.RAGOTHAMA RAO

3 G.S.RAGHAVENDHIRAN

4 G.S.SAHYANARAYANAN

5 INDHIRA

6 CHANDRA

7 UMA

8 SUDHA

9 RAMA

10 S.BALAKRISHNAN

11 TMT.N.JALAJA

12 PARIMALA NAGARAJAN

13 K.R.VIJENDRAN

14 HEMALATHA GOPI

15 D.MTHULINGAM



16 RELIGARE FINVEST LIMITED,
REP. BY ITS MANAGER, THE OVAL, 5TH FLOOR,
OFFICE NO.10 AND 12, VENKATANARAYANA ROAD,
T.NAGAR, CHENNAI 600 017.

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Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased To implead the proposed 15th and 16th respondents as 15th and 16th respondents to the above appeal (in CMP.No.18703 of 2016).

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.V.SESHACHARI, Advocate for the petitioner and of MR.T.S.VIJAYA RAGAVAN, Advocate for the 2 to 4, 6 to 9 and 13th Respondents and of MR.G.APPAVU, Advocate for the 15th Respondent and of MR.S.ARUNACHALAM, Advocate for the 16th Respondent, the court made the following order:-

This petition is filed to implead one D.Muthulingam and M/s.Religare Finvest Limited as respondents 15 and 16 in the pending appeal.

2. As per the affidavit filed in support of the implead petition, the appellant/plaintiff in the suit filed for partition, failed to succeed before the trial Court and being aggrieved by the dismissal of the suit vide judgment dated 09.12.2010, preferred the Appeal Suit in the year 2011. While so, having come to know about the pending appeal, the respondents 2 to 4 have sold the suit subject property in favour of D.Muthulingam on 05.10.2015 and the said Muthulingam had deposited the title deed with M/s.Religare Finvest Limited to raise loan. Therefore, the purchaser of the suit property pending appeal and the finance company, which has advanced loan based on the title deed, are necessary parties in the appeal and therefore they have impleaded.

3. After notice both the proposed respondents have entered appearance through counsel. The 16th respondent, who is the finance company, has also filed a detailed counter. As far as Mr.Muthulingam the proposed 15th respondent is concerned, the learned counsel appearing for the proposed 15th respondent would state that on 05.10.2015, he had purchased the property, demolished the super structure and had put up a new construction in the said property and he is the bonafide purchaser for value. As far as the proposed 16th respondent namely M/s.Religare Finvest Limited is concerned, in the counter they have specifically stated that based on the title deed stood in favour of Muthulingam, they have advanced loan taking the property as security. Subsequently, Muthulingam has cleared the due on 30.04.2018 and therefore, they are no way connected with the suit and they are not the necessary party in the appeal.



4. The proposed 15th respondent is a purchaser, *pendente lite* which is subject to provision of law as well as the proposed 16th respondent is concerned, he is only a financier who advanced the loan and the said loan was cleared by the 15th respondent and they are no way connected with the property in any manner as on date. Regarding bonafide purchaser of the proposed 15th respondent/Muthulingam, the learned counsel submits that he had demolished the superstructure and had put up a new construction. In any event, such risk is taken by the proposed 15th respondent on his own and even if, he is a bonafide purchaser, the appellant is going to succeed in the appeal, he has to face the consequence, for having purchased the property which is the subject matter of the appeal pending before this Court since 2011.

5. In view of the above, this Court is of the opinion that the petition filed to implead Muthulingam and his financier is unnecessary and superfluous therefore inclined to dismiss the petition.

6. In the result, this petition is dismissed. The learned counsel for the appellant is directed to be ready on 16.02.2022.

7. Post the matter for final disposal on 16.02.2022.

-sd/-

08/02/2022

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Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE I ADDITIONAL DISTRICT JUDGE,
FAST TRACK COURT, CHENGALPATTU.

Order

in

CMP.No.18703 of 2016

in AS.No.301 of 2011

Date :08/02/2022

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