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O.S.A.No.278 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM

The Hon'ble Mr. Justice **PARESH UPADHYAY**
and
The Hon'ble Mr. Justice **D.BHARATHA CHAKRAVARTHY**

O.S.A.No. 278 of 2022
and
C.M.P. No.17917 of 2022

Vijay M.Pai

.. Appellant

VS

1.A.Ananth
2.P.Surulinarayanasami
3.P.Pramila
4.Y.Abinesh
5.Annapoorna

..Respondents

Appeal filed under Order XXXVI Rule 9 of Original Side Rules and
Clause 15 of the Letters Patent against the judgment dated
29.03.2022 passed in Application No.1348 of 2022 in C.S.No.401 of
2019.

For Appellant : Mr.S.Ashok Kumar



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JUDGMENT

(Delivered by D.BHARATHA CHAKRAVARTHY.,J)

1. This appeal is filed against the Order dated 29.03.2022 in and by which the application in A.No.1348 of 2022 in C.S. No.401 of 2019 filed by the second defendant in the suit to strike his name out of the array of parties was refused by learned single Judge.

2. Mr.S.Ashok Kumar, learned counsel appearing on behalf of the appellant submitted that absolutely no relief whatsoever has been prayed against the appellant herein. The sale deed is referred to in the plaint and nothing else has been pleaded as against the second defendant. In that view of the matter, when no relief is prayed and when no allegations are made against the second defendant, the second defendant is not a necessary party to the suit and, therefore, the learned single Judge ought to have allowed the application.

3. We have considered the submissions made on behalf of the appellant and perused the material records of the case.



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4. It may be seen that the suit is for rendition of accounts as against the first defendant who was the power of attorney of the plaintiff. Averments are made that the first defendant/agent has sold the property to the second defendant viz., the appellant herein. In that view of the matter, so as to determine whether any sale consideration was paid, if so the quantum, time etc., the second defendant is very much a proper party, even though the second defendant may not be necessary party as far as the relief prayed for is concerned. Therefore, the learned single Judge is right in refusing the application.

5. In the result, the appeal is without merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(P.U., J) (D.B.C., J)
27.10.2022

Index:Yes/No
mmi/2

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

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**PARESH UPADHYAY, J.
and
D.BHARATHA CHAKRAVARTHY, J.**

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