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C.M.P.No. 11869 of 2022
in S.A. No. 1175 of 2013

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T.V. THAMILSELVI, J.

This Civil Miscellaneous Petition has been filed seeking to implead the petitioners herein as proposed respondents 5 and 6 in the above Second Appeal.

2. Mr.S.Anburaja, learned counsel for petitioners/proposed respondents 5 and 6 submitted that the suit property originally belonged to Rathina Thanthiriyar and the properties were divided among his legal heirs including their grandmother Pachaiammal in the year 1945 and allotted suit items 2,4,6 and 7 and other properties in Survey Nos.313/1, 309/1 and 313/2. So, as the grandsons of Pachaiammal through their father Periyathambi, they are also necessary parties, but the plaintiffs came from the branch of Appavu Thanthiriyar, one of brothers of his grandmother filed a suit against the present defendants, who are the legal heirs of Ayyadurai, brother of his father Periyathambi. But, the suit properties allotted to Pachaiammal are belong to them viz., defendants father and their father Periyathambi. Hence, they are necessary parties to the proceedings.



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However, the learned counsel for plaintiffs denied the oral partition in favour of Pachaiaammal.

3. It is also stated that the 2nd respondent put up unlawful construction in the property. Hence, he claimed declaration relief against Ayyadurai, who denied his title and caused disturbance in the possession of the property. Thus, the petitioners have no right to compel him to implead them in the suit and colluded with the other defendants, they filed this vexation petition. So also, the other respondents submitted that the petitioners are no way concerned with the property.

4. But, on perusal of records, it is found that the proposed petitioners are legal heirs of Periyathambi, who is one of son of Pachaiaammal and the case of defendants is that the properties are allotted to Pachaiaammal by oral partition. Hence, the petitioners are also necessary parties with regard to the suit property, if oral partition is true. But, the issue pending before this Court in the above Second Appeal is with regard to oral partition. So, as the petitioners are also necessary parties to adjudicate the issue pending between the parties with regard to the suit relief and to avoid multiplicity of



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proceedings, this petition is allowed. Accordingly, the proposed petitioners are impleaded as respondents 5 and 6 in the above Second Appeal.

5. The Registry is directed to print the name of Mr.S.Anburaja, learned counsel for proposed respondents 5 and 6 in the cause list and also directed to carry out the necessary amendment in the cause title and post the matter on 24.08.2022 for arguments.

05.08.2022

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