



C.M.P.No.18254 of 2022

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in A.S.No.34 of 2022

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A.D.JAGADISH CHANDIRA, J.

This petition has been filed seeking to allow the implead petition filed by the petitioner/respondents 1 and 2 and thereby implead the proposed respondents 4 to 7 as parties to the application.

2. It is the case of the petitioner that he is the Managing Director of the 1st respondent company herein and which was now merged with Ramaniyam Real Estates Pvt Ltd., and thereby he has been arrayed as 2nd respondent in his individual capacity in the above appeal. It is the further case of the petitioner that the property in question belongs to one Mr.M.Swaminathan (HUF) and his family and he is representing Mr.M.Swaminathan and family members as Kartha of the family and that the family had executed a Power of Attorney in favour of the proposed 7th respondent herein in his individual capacity.

(ii) It is the further case that the appellants 1 to 3 have entered into a development agreement with the 1st respondent company for joint development on 27.05.2011 and received a sum of Rs.10 Crores as advance and put the respondent company into possession of the property and the company is in possession of the property from the date of agreement. The said agreement, was entered into by the appellants and one Arun Malhotra with one M/s.Amarneedhi



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Realtors Private Limited, which was subsequently amalgamated with the petitioner company vide order of the Ministry of Corporate Affairs by order dated 12.12.2017 and the assets and liabilities were absorbed by the 1st respondent company and from the date of amalgamation, the M/s. Ramaniyam Real Estates Private Limited, became the owner of the amalgamated company by absorbing all its assets and liabilities and that was also intimated to the appellants 1 to 3 and Arun Malhotra.

(iii) It is the further case that the said Arun Malhotra, who is not a party to the suit and appeal, is representing the owners in the said agreement as the Power Agent of Mr.M.Swaminathan HUF. The said agreement holders have entered into a Supplemental Agreement dated 25.06.2011. While so, the agreement holders, namely the appellants received a further sum of Rs.5 Crores and handed over all the original documents including the power of attorneys to the petitioner company through their lawyer vide their letter dated 04.02.2012 and all the original documents are in the custody of the 1st petitioner company.

(iv) Before that M/s.Satya Surendran Developers, the respondent/3rd appellant had sent a mail to the 1st petitioner company on 15.10.2011 confirming the receipt of the additional sum of Rs.5 Crores and instructed their counsel to handover all the original documents to the 1st respondent. While so, there were disputes between the parties, which resulted in exchange of letters



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and finally the appellants herein had filed a Civil Suit for permanent injunction in C.S.No.900 of 2015 on the file of this Court and attempted to get interim injunction restraining the 1st petitioner and its Managing Director from disturbing their possession as if they are in possession of the property. This Court has refused to grant interim injunction and ordered notice and then petitioners also entered appearance and filed an application under Order VII Rule 11 of CPC to reject the plaint in C.S.No.900 of 2015.

(v) It is the further case of the petitioners that the suit was transferred on the ground of pecuniary jurisdiction to City Civil Court and re-numbered as O.S.No.3765 of 2019 on the file of VIIth Additional Judge, City Civil Court and the application filed under Order VII Rule 11 of CPC was taken up for enquiry and the application filed by the respondents/appellants allowed on 20.10.2021 and the suit in O.S.No.3765 of 2019 was dismissed. Against which the respondents had preferred appeal before this Court in A.S.No.34 of 2022 and the same is pending before this Court.

(vi) It is the further case of the petitioners /respondents that the appellants taking advantage of the pendency of the proceedings, had attempted to create encumbrance by registering the documents based on fabricated documents before the registration authorities and it was frustrated and prevented by the petitioners.



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(vii) It is the further case of the petitioners/respondents that since the appellants attempted to create documents by way of fabrication and counterfeiting seals and thumb impression they had filed a Writ Petition in W.P.No.25236 of 2022, seeking a Writ of Mandamus to forbear the proposed respondents 4 to 7 from admitting or registering any documents with reference to the suit schedule property. This Court was pleased to dispose of the Writ Petition with a direction to take steps to implead the proposed respondents 4 to 7 and while disposing the Writ Petition had directed the petitioner to file appropriate petition before this Court in A.S.No.34 of 2022 for impleading the concerned registration authorities and thereby, it is necessary that the respondents 4 to 7 have to be impleaded in this application as necessary parties.

3. The respondent/ appellants had filed a detailed counter. In the counter, it had been stated that the respondents/appellants are the plaintiffs before the trial Court and they are the “dominus litis” and that nobody can be permitted to be impleaded as defendants against the wish of the plaintiffs. The principle of dominus litis is well known in regard to impleadment of parties, which clearly provides that the plaintiff in a suit being dominus litis, may choose the person against whom he wishes to litigate and cannot be compelled to sue a person against whom he does not seek any relief. Consequently, a person who is not a party has no right to be impleaded against the wishes of the plaintiff. In the



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present case, the respondents 1 to 3 appellants/plaintiffs had sought for a perpetual injunction against the petitioners and have no disputes against and seek no reliefs against the proposed respondents being the Registration Authorities and that the proposed respondents are not necessary parties. It is further submitted that the question of jurisdiction of the Court to invoke Order 1 Rule 10 CPC to add a party who was not made a party in the suit by the plaintiff shall not arise unless a party proposed to be added has direct and legal interest in the controversy involved in the suit. A person is legally interested to answers the controversies only if he can satisfy the Court that it may lead to a situation where it will affect him legally. Two tests are to be satisfied for determining the question of who is a necessary party;

- (1) There must exist a right to get some relief against such party in respect of the controversies involved in the proceedings; and
- (2) no effective decree can be passed in the absence of such party.

4. The petitioners have also filed a reply affidavit contending that fraud has been attempted on the authorities and therefore, they are necessary parties to the proceedings.

5. It is further stated that having failed in its ill-conceived endeavor to obtain a mandamus against the proposed 7th respondent alone who is also not a necessary party and the suit itself is seeking for permanent injunction the



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registration authorities who are proposed to be impleaded as parties are not necessary to the dispute.

6. Mr.S.Sundaresan, learned counsel appearing for the petitioners in CMP.No.18254 of 2022 would submit that the appellants had, based on certain fabricated documents, attempted to register documents thereby create encumbrance as against the interest of the petitioners. Based on the complaint given by the petitioners as well as the registration authorities two cases have been registered against the respondents/appellants by the CCB, Chennai, and that thereby, the proposed respondents are necessary parties. The 7th respondent whose power has been cancelled and that some documents have been created by creating fabricated documents is also a necessary party.

7. Ms.Pavithra Venkateswaran counsel representing the respondents/appellants would submit that in the suit, the respondents are the plaintiffs. The scope of the suit is very limited to the extent of seeking for a perpetual injunction against the petitioners/respondents in interfering with the possession of the respondents/appellants. Further the respondents/appellants being the plaintiffs and dominus litis they are the persons who can be permitted to implead necessary persons. The Principle of dominus litis is well known that the plaintiffs in a suit being dominus litis, may choose the person against whom he wishes to litigate and and the respondents/appellants being the plaintiff



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before the trial Court cannot be compelled to sue or implead a person against whom he does not seek any relief. Further it is a suit for bare injunction and the registration authorities are necessary parties to the suit and thereby, he would seek for dismissal of the application.

8. The learned counsel for the respondents would also submit that pending this proceedings before this Court, the petitioners have also approached the City Civil Court by filing O.S.No.3300 of 2023, in which all the proposed respondents have been added as defendants and they have also obtained an ad-interim injunction against them on 04.05.2023.

9. Heard perused the materials available on record.

10. Admittedly the respondents/appellants are the plaintiffs in the suit before the trial Court. The suit is filed for a bare injunction against the petitioners/respondents seeking for a injunction not to interfere with the possession. The petitioners have filed a petition seeking to reject the plaint and the plaint has been rejected against which, the present appeal has been filed. In the present appeal, the respondents /defendants have filed the application to implead the registration authorities. This Court has to first come to a conclusion whether the proposed parties are necessary parties to the proceedings or not.



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11. In order to implead a person as a necessary party the party seeking to implead should satisfy the following conditions viz.,

- (1) There must be a right to some relief against such party in respect of the controversies involved in the proceedings; and
- (2) No effective decree can be passed in the absence of such party.

12. In this case as stated above the issue is with regard to who is in possession and not with regard to fabrication of documents and attempt to register documents based on fabricated documents before the revenue authorities. Further the respondent being the plaintiff as dominus litis, it is his prerogative to implead parties.

13. In the case of Kasturi Vs.Iyyamperumal reported in (2005) 6 SCC 733, the Apex Court has held that the principle is that the plaintiff being the dominus litis cannot be forced to add parties against whom he does not want to fight and against whom no relief is sought for unless there is a compulsion of the rule of law.

14. On perusal of the entire factual aspects this court is of the opinion that the proposed respondents are not necessary parties to the proceedings and thereby, the petition stands dismissed.



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