



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Twenty Ninth day of March Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice ABDUL QUDDHOSE

CMP(MD) No.11343 of 2022

in

SA(MD) No.203 of 2022

RAJAPANDI

... Impleading Petitioner / 3rd Party /
Proposed 10th Respondent

Vs

1 VIJAYA

... 1st Respondent / Appellant

DUR AISAMI (DIED),

2 KARUPPAYEE

3 AMUTHUA

4 MOHAN

5 MAHENDRAN

6 RAMESH

7 MANJULA

8 SENTHIVEL

9 GOKULAKRISHNAN

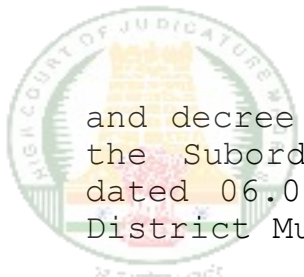
10 THE TAHSILDAR,
TALUK OFFICE,
MELUR TALUK,
MADURAI DISTRICT.

... Respondents 2 to 10 /
Respondents 1 to 9

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to implead the petitioner in the above Second Appeal in S.A.(MD).No.203 of 2022 and rank the petitioner as 10th Respondent.

Prayer in SA(MD). 203/ 2022 :

Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the Second Appeal and to set aside the judgment



and decree dated 26.02.2021 made in A.S. No. 54/2019 on the file of the Subordinate Court, Melur confirming the judgment and decree dated 06.01.2017 made in O.S. No. 158 / 2005 on the file of the District Munsif Court, Melur.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.V. SANTHAKUMARESAN, Advocate for the petitioner and of Mr.PT.S.NARENDRAVASAN, Advocate for the Respondent No.1 and of Mr.S.A.AJMAL KHAN, Advocate for Respondents No.2 to 9 and of Mr.S.JEYAPRIYA, Government Advocate on behalf of the Respondent No.10, the court made the following order:-

This application has been filed to implead the petitioner as the 10th respondent in this Second Appeal.

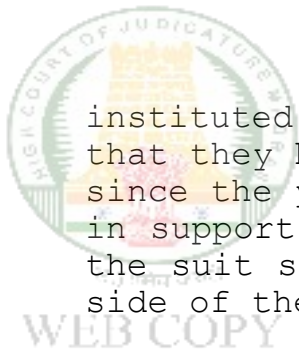
2. The reasons given by the petitioner for filing this impleading petition are as follows:

a) Item 1 of the suit schedule property is owned by his mother, she having purchased the same under a sale deed dated 27.06.1978. The petitioner claims that the property was never sold by his mother to any third party subsequent to her purchase.

b) The petitioner claims that he is in possession and enjoyment of item 1 of the suit schedule property. He claims that he came to know about the present dispute between the appellant and the respondents only now and that is the reason for his delay in filing this application seeking to implead himself as a party respondent in this Second Appeal.

3. The respondents have also filed their counter affidavits and they have categorically contended that the petition filed to implead is not maintainable. They have stated that the first item of the suit property was purchased by Ammaponnu in the year 1978, but no reasons have been stated in the affidavit filed by the petitioner as to why his mother did not come forward earlier to file the present application. They have also stated that the affidavit filed by the petitioner is silent as to how the petitioner derived title to the first item of the suit schedule property. They have also stated that even assuming that the petitioner's mother has a right to claim in respect of item No.1 of the suit schedule property, the petitioner's mother ought to have moved the competent Civil Court by filing a separate suit for declaration.

4. Admittedly, the sale deed executed in favour of the petitioner's mother is of the year 1978. The petitioner has not filed an impleading application to implead himself as a party defendant in the suit. He has chosen to file the impleading application only in the Second Appeal stage. The suit, which is the subject matter of the Second Appeal, is of the year 2005. The



instituted in the year 2005. The plaintiffs in the said suit claim that they have been in possession of the suit schedule property ever since the year 1978. The plaintiffs have also filed revenue records in support of their contention that they have been in possession of the suit schedule property, as seen from the exhibits marked on the side of the plaintiffs before the Trial Court.

5. The petitioner must show justifiable reasons for filing this impleading application in the Second Appeal stage. The reasons given by the petitioner for filing this impleading application in the Second Appeal stage are not justified. No supporting documentary evidence has also been produced by the petitioner for the inordinate delay in filing this application seeking to implead himself as a party respondent in this Second Appeal. The petitioner has also not produced any documentary evidence to show as to how he alone has derived title to item No.1 of the suit schedule property. He does not have any right to implead himself in the dispute between the plaintiffs and the defendants and if at all, he is having any remedy over the item No.1 of the suit schedule property, he has to file a separate suit and he cannot implead himself in the Second Appeal stage when he did not implead himself by filing an impleading application in the suit.

6. Since there are no justifiable reasons given by the petitioner for filing this impleading application at the Second Appeal stage, there is no merit in this application. Accordingly, this Civil Miscellaneous Petition is dismissed.

sd/-
29/03/2023

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/04/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LM

To

The District Munsif,
Melur.

ORDER
IN
CMP(MD) No.11343 of 2022
in
SA(MD) No.203 of 2022
Date :29/03/2023

ED/CG/SAR-3 (10/04/2023) 3P 2C

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