



A.No.671 of 2024
in TOS.No.1 of 2023

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Reserved on: 12.04.2024

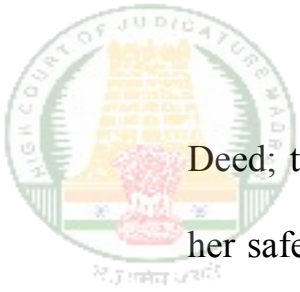
Pronounced on: 18.04.2024

P.B.BALAJI, J.,

This application has been filed to implead the respondents 2 to 9 as defendants in T.O.S.No.1 of 2023, for effective adjudication of the main case.

2.It is the case of the applicant that one, late C.L.Saratha had executed a Will and the applicant/plaintiff, as son of said C.L.Saratha, has filed the above Original Petition for grant of letters of administration. The 1st respondent filed a caveat, opposing the grant and therefore, the Original Petition was converted into Testamentary Original Suit. It is seen that the defendants have purchased the suit property, pending the above TOS. The applicant therefore seeks impleadment of the purchasers as defendants in the present Testamentary Original Suit.

3.The application is opposed by the 1st respondent/defendant stating that the Will alleged to have been executed by C.L.Saratha on 05.02.2010 is not true and genuine Will; the applicant has no right or interest over the suit property; the revenue authorities conducted an enquiry and entrusted possession of the house to the 1st respondent/defendant; the applicant has falsely claimed to be an adopted son under a bogus Adoption



Deed; the 1st respondent/defendant was advised to alienate the property for her safety since the applicant had threatened her; the subsequent purchasers had all got legal opinion and they were aware of the pending lis; the Sub Registrars are not necessary parties to the testamentary proceedings and the applicant has not challenged the alienations effected by the 1st respondent/defendant and therefore, the respondents are not at all proper and necessary parties.

4.I have heard Mr.M.Ganesan, learned counsel for the applicant, Mr.P.Thiagarajan, learned counsel for the 2nd respondent, Mr.B.Kesavan, learned counsel for the 3rd respondent and Mr.J.Kamaraj, learned counsel for the 5th respondent.

5.Admittedly, pending the above Original Petition (subsequently converted as TOS), the property which is the subject matter of the Will has been alienated by the defendant. The defendant had filed a caveat opposing the grant of probate of the Will said to have been executed by C.L.Saratha. No doubt, the purchasers would be bound by the result of the lis and the doctrine of *lis pendens* would certainly affect their respective purchasers. I find that the Original Petition was originally filed without adding anybody as party respondent. However, only in view of the caveat filed by the 1st respondent, she was impleaded by order of this Court dated 25.08.2022 and thereafter, the Original Petition was converted into TOS.



6. Admittedly, as on date, the 1st respondent/defendant has no subsisting interest in the properties which are subject matters of the Will and the plaintiff seeks to have the Will tested in the presence of the present owners who are all purchasers of the 1st respondent/defendant. Therefore, I do not see any prejudice caused to any of the respondents, especially, the 1st respondent and the defendant in the suit and the respondents 2 to 5 who are subsequent purchasers, with/without knowledge of the probate proceedings. However, in so far as the impleadment of the Sub Registrars, namely the respondents 6 to 9, I do not see any reason whatsoever for justifying their presence for proper and effective adjudication of the Testamentary Original Suit. Therefore, in so far as the Sub Registrars, namely the respondents 6 to 9 are concerned, the impleading application is liable to be dismissed.

7. In fine, the application is partly allowed and the respondents 2 to 5 are directed to be impleaded as defendants 2 to 5 in the Testamentary Original Suit and in so far as the respondents 6 to 9 are concerned, the application stands dismissed.

18.04.2024

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Note : Registry is directed to carryout necessary amendment in the suit.



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