



WEB COPY

A No. 3079 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

A No. 3079 of 2025 and

A No. 3080 of 2025

in

CS No. 132 of 2009,

1. P.Ashok Kumar

No.51, Hunters Road, Chennai 600 112.

Applicant(s)

Vs

1. Mr.Rajendra Kumar Daga And 4 Others

No.1-A, Chandanbala Annex - II, Door No.1, Brithapet
Road, Vepery, Chennai 600 007.

2.Mr.T.Sridhar

No.40A(24A) Dewan Rama Road, Purasawakkam,
Chennai 600 084.

3.T.Madhavan

Chennai

4.T.Meera

Chennai

5.M/s.Muthialpet Benefit Fund Ltd

No.199, Thambu Chetty Street, Chennai 600 001.

Respondent(s)



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A No. 3080 of 2025

1. P.Ashok Kumar

No.51, Hunters Road, Chennai 600 112.

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Applicant(s)

Vs

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Respondent(s)

A No. 3079 of 2025

PRAYER : To set aside the ex parte decree dated 10/07/2012 passed in the above suit in C.S.No.132 of 2009.

A No. 3080 of 2025

PRAYER : To implead the Applicant/5th Proposed Defendant as Party 5th Defendant in the above suit C.S.No.132 of 2009.



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For Applicant : M/s. L.OM Magesh

For Respondents : Mr.C.Subramanian for
Mr.N.Raja Senthoo Pandian

ORDER

The above applications have been filed by the third party to the suit to implead himself in the suit which has been disposed as early as in the year 2012 and to set aside the exparte decree dated 10.07.2012 passed in the above suit.

2. The suit has been filed in the year 2009 by the plaintiff against the defendants on the strength of the sale agreement dated 15.12.2004 for seeking the relief of specific performance. After the suit was decreed and the relief of specific performance was granted, now the execution proceedings has been filed and it is pending in E.P.No.27 of 2018. At this stage, these applications have been filed to implead the applicant as a party to the disposed suit stating that he has also filed a suit in O.S.No.7544 of 2019 against the very same defendants on the sale agreement executed in his favour dated 05.10.2003. The suit has been decreed on 11.04.2022. The present plaintiff was not a party to the earlier suit filed by the applicant in O.S.No.7544 of 2019.

3. The applicant claims that his decree is earlier in point of time. Now the applicant cannot destabilize his decree by filing the impleading petition at this



remote point in time. Knowingly, the suit has been disposed on merits and a decree has already been passed as early as on 10.07.2012. So it is upto the present plaintiff to file a suit to declare the decree obtained by the third party as invalid or the third party has to file a fresh suit to declare the decree obtained by the plaintiff of this suit is invalid, if they are so advised. Without resorting to the remedy actually meant for him, the applicant cannot circumscribe and file these applications to implead himself as a party to the suit which has already been disposed and to set aside the *exparte* decree.

4. To be noted that the decree passed in the suit is not a preliminary decree and what is now pending is not final decree proceedings in which sometimes the parties who are not the parties to the suit might get impleaded for the purpose of final decree. The situation that has arisen in this suit is completely different as the decree passed in the suit is for specific performance and not for final decree proceedings.

5. Therefore, the application filed by the applicant to implead himself as a party to the suit is not maintainable even at the threshold and the same is dismissed. As the applicant has not been a party to this suit and his application to implead him as a party itself is dismissed, the other relief seeking to set aside the decree will not arise and hence, it is closed.

01-09-2025

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To

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Others

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