



A.Nos.3461, 3462 & 3463 of 2025

in

C.S.No.658 of 2012

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C.V.KARTHIKEYAN, J.

These three applications have been filed by the third parties to the suit seeking to implead themselves as the 14th and 15th defendants. They are the legal representatives of the 3rd defendant.

2.In the affidavit filed in support of the Judges Summons, it had been contended that the 3rd defendant had died even prior to the institution of the suit and that the applicants herein were not aware of the pendency of the suit and after knowledge came to them, they had filed these applications seeking to implead themselves and to set aside the abatement owing to the death of the 3rd defendant and to condone the delay in filing such application.

3.A counter affidavit had been filed on behalf of the plaintiff contesting the applications. It is stated that the 3rd defendant even during her life time had executed the Release Deed with respect to her 1/3 share of the suit schedule property and even the 3rd defendant had no right, title or interest existing over the suit schedule property. It is therefore contended that the applicants herein cannot seek any further right larger than what could have been granted or what could have been agitated by the 3rd defendant. It is also contended that the applicants are not in possession and as a matter of fact, the 3rd defendant was never in possession.



C.V.KARTHIKEYAN, J.

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4.The learned counsel for the applicant however placed reliance on the judgment in O.S.No.7686 of 1972 on the file of the City Civil Court, Chennai, wherein the right of the 3rd defendant had been crystallized to 1/3 undivided share in the suit schedule property.

5.But however, having executed the Release Deed that right does not survive anymore and if at all, the monies value of such right is sought then independent proceedings will have to be initiated by the applicants, not against the plaintiff, but against those from whom that 1/3 right could be claimed by the applicants. They are neither necessary parties nor proper properties to adjudicate the issues raised in the suit which is for a declaration of the title of the plaintiff over the suit schedule property and for delivery of vacant possession after the demolition of the superstructure. The applicants are not in possession and therefore they would not be bound by any decree. These applications are dismissed as they have no right, title or interest over the suit property.

06.08.2025

smv

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