



CRP No.3245 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :14.07.2025

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CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P.No3245 of 2023 and CMP No.19997 of 2023

1.P.Kumar

2.B.Nithya

... Petitioners

VS

1.R.Vanitha Rajendhran

2.B.Rajendhran

3.S.Mahalingam

4.M.Kodimullai

5.L.J.A.Selvadore Inbaraj

6.V.Usha

7.V.Kirthika

.. Respondents

Revision filed under Article 227 of the Constitution of India against the order and decreetal order dated 06.07.2023 made in I.A.No.1 of 2022 in O.S.No.2430 of 2021 on the file of XXIII Additional City Civil Court, Chennai.

For Petitioners : Mr.R.Thirugnanam

For Respondents : Mr.B.Manoharan

For R.1 and R.2

For R.3 to R.5 – Not ready in notice

Mr.M.Kamalakaran

For R.6 and R.7



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ORDER

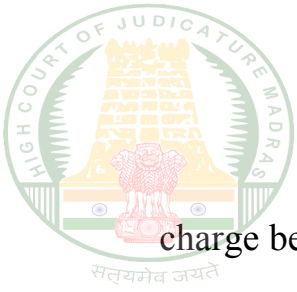
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Heard learned counsel for the petitioners and learned counsel for the contesting respondents.

2. The application in I.A.No.1 of 2022 in O.S.No.2430 of 2021 to implead the revision petitioners came to be allowed by the trial Court and aggrieved by the same, the present civil revision petition has been filed.

3. In a suit for recovery of money from the defendants 1 and 2, pending the suit, after the defendants 1 and 2 were set exparte, an application in I.A.No.1 of 2022 has been filed for impleading respondents 3 to 7 as defendants 3 to 7 in the main suit. Only proposed defendants 6 and 7, who are arrayed as respondents 6 and 7 in I.A.No.1 of 2022 are the revision petitioners herein. The other proposed defendants have not chosen to challenge the order passed in I.A.No.1 of 2022 directing their impleadment in O.S.No.2430 of 2021.

4. Learned counsel for the petitioners taking me through the affidavit filed in support of the application for impleading the proposed parties under Order 1 Rule 10(2) of Civil Procedure Code would contend that in a suit for recovery of money simpliciter, there has been no averments with regard to any



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charge being retained in the property on account of unpaid amount.

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5. However, it is the specific contention of the learned counsel for the contesting respondent that only a portion of the property was conveyed to the defendants 1 and 2. However, the defendants 1 and 2 have proceeded to sell the entire property over and above their entitlement. It is therefore contended that the proposed respondents are necessary parties and they cannot claim to be bonafide purchasers. However, considering the fact that the suit is only for recovery of money from the defendants 1 and 2 and the plaintiffs themselves admit that the property has been sold and only a sum of Rs.6,50,000- is due and payable from the defendants 1 and 2, have now chosen to seek to implead the purchasers from the defendants 1 and 2.

6. The revision petitioners purchased the properties originally belonging to the plaintiffs and subsequently sold the same to the defendants 1 and 2. On going through the affidavit filed in support of the application to implead the proposed defendants, who are the purchasers of the property that has been originally sold by the plaintiffs, it is seen that the plaintiffs are aware that the defendants 1 and 2 were set exparte and the plaintiffs have come to know from Encumbrance Certificate obtained at the time of preparation of proof affidavit



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that the property has been sold to the proposed defendants and all these transactions are without notice to the plaintiffs and since the transaction had taken place pending the suit, the proposed defendants are alleged to be *pendente lite* transferees and therefore, necessary for adjudication of the suit.

7. I am unable to agree with the said submission of the learned counsel for the respondents for the simple reason that there is no relief insofar as the property that has been conveyed by the plaintiffs. In fact, the plaintiffs have admitted in the plaint that the property has been sold and they would be satisfied if the amount of Rs.6,50,000- which remains unpaid at the hands of the defendants 1 and 2 is paid. This is the sum and substance of the suit claim.

8. In the light of the above, I do not see how the proposed respondents/defendants are proper and necessary parties to the suit. Under Order 1 Rule 10(2) of Civil Procedure Code, the Court should ascertain whether the parties who are sought to be impleaded in the suit are going to, in any manner, assist the Court in adjudicating the issues that arise for consideration in the light of the pleadings available. Here, admittedly, the suit is for recovery of money and therefore, question of title is alien for adjudication in the suit.



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WEB COPY 9. In such view of the matter, the proposed respondents are neither proper nor necessary parties to the suit, However, the trial Court has proceeded to erroneously allow the application holding that there can be no effective adjudication in the absence of the purchasers. The said reasoning is wholly unsustainable since there is no issue with regard to the property being sold and the same has never been questioned in the suit and the suit is only for recovery of money simpliciter from the defendants 1 and 2 alone. In such a suit, the presence of the proposed defendants, who are the purchasers of the suit property, is certainly not necessary.

10. In the result, at the instance of only two of the proposed defendants, the order passed in I.A.No.1 of 2022 in O.S.No.2430 of 2021 is set aside and the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2025

Index: Yes
Website:yes
Speaking Order
sr



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P.B.BALAJI.,J.

sr

To

The XXIII Additional City Civil Court, Chennai.

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