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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23-07-2025**

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP NO. 276 of 2025

SELVAVINAYAGAM

S/o. P. Dhanadapani, No.6, Devaneyan Street,
Pakkamudayanpet, Puducherry - 008.

Petitioner(s)

Vs

S.Manjula

W/o. K. Sekar, No.4, Thiruvalluvar Street,
Kamaraj Nagar, Puducherry-11 Chinnaponnu @
Nagammal (Died). and 11 Others

Respondent(s)

For Petitioner(s): Mr.N.U.Pressanna

For Respondent(s): M/s.N.Jayakumar

ORDER

The matter has been listed today under the caption for 'being mentioned'.

2.In the prayer column as well as in Paragraph No.11, the name of the Court reflected as III Additional District Judge, Puducherry, shall stand corrected as II Additional District Judge, Puducherry.

3.In paragraph No.8, the first and second sentences shall read as follows:



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“It is a matter of different concern that the Sale Deed of the year 1965 has been declared as null and void by the Sub-Court, Puducherry in O.S.No.203 of 1968 and the same has become final. However, the learned counsel for the 1st respondent would bring to my notice that a separate suit has been filed by the 1st respondent and states that there are other civil proceedings pending and therefore, the 1st respondent is not a proper and necessary party to the present suit. As held by the Hon'ble Supreme Court, in a suit for specific performance, the plaintiff, being *dominus litis*, cannot be compelled to prosecute his case against persons whom he does not intend to.”

4.Registry is directed to carry out aforesaid corrections in the order dated 04.07.2025 and issue a fresh order copy to the parties. Except for the aforesaid corrections, the order dated 04.07.2025 remains unaltered in all other respects.

23-07-2025

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To

1.The II Additional District Judge, Puducherry.

2.The Chief Secretary

Res. at Government of Union Territory of Puducherry, Chief Secretariat,
Goubert Avenue, Puducherry - 001.

3.The District Registrar

Registration Department of Puducherry, Ground Floor - Kamaraj Salai,
Sakthi Nagar, Saram, Puducherry - 013.

4.The Sub-registrar

Oulgaret Sub Registrar Office, Reddiyar Palayam, Puducherry – 010.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 25.06.2025

Order pronounced on : 04.07.2025

CORAM

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

CRP.No.276 of 2025
& CMP.No.1825 of 2025

Selvavinayagam

..Petitioner

Vs.

- 1.S.Manjula
- 2.Parimallesvary
- 3.Shanmuganathan
- 4.Thamayanthi
- 5.Baskaran
- 6.Purandaran @ Purandaradasan
- 7.Latchmi @ Dhanalakshmi
- 8.Deenathayalan
- 9.Suriya @ Logeswaran

10.The Chief Secretary,
Government of Union Territory of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry – 605 001.

11.The District Registrar,
Registration Department of Puducherry,
Ground Floor – Kamaraj Salai,
Sakthi Nagar,
Saram, Puducherry – 605 013.



12. The Sub-Registrar,
Oulgaret Sub-Registrar Office,
Reddiarpalayam,
Puducherry – 605 010.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 28.10.2024 in I.A.No.685 of 2023 in O.S.No.168 of 2022 on the file of the II Additional District Judge, Puducherry

For Petitioner : Mr.N.U.Pressanna

For Respondents : Mr.N.Jayakumar for R1

Mrs.G.Lavanya for RR2 to 4, 6 to 8

Mr.Ramaswamy Meyyappan
Government Advocate (Puducherry)
for RR10 to 12

No appearance for RR5 & 9.

ORDER

The plaintiff in a suit for specific performance, aggrieved by the order passed by the Trial Court, permitting impleadment of a third party in I.A.No.685 of 2023, is before this Court, by way of the above revision.

2.I have heard Mr.N.U.Pressanna, learned counsel for the petitioner, Mr.N.Jayakumar, learned counsel for the 1st respondent, Mrs.G.Lavanya for
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the respondents 2 to 4 and 6 to 8 and Mr.Ramaswamy Meyyappan, learned Government Advocate (Puducherry) for the respondents 10 to 12.

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3.The learned counsel for the petitioner would submit that the Trial Court has grossly erred in allowing the application filed by a third party seeking impleadment in a suit for specific performance, which has been filed by the revision petitioner against the defendants. He would further state that the plaintiff has come to Court to enforce a contract between the plaintiff and the defendants and the proposed party had no role to play in the said suit. He would further state that by permitting impleadment, the Trial court has enlarged the scope of the suit itself. He would further state that the suit property originally belonged to one Ramasamy @ Ramalinga Gramani, who had sold it to Balasoundara Mudaliar and Munisamy @ Sinouvassane, even as early as in 1965. However, the said Sale Deed was declared as null and void by the Sub-Court, Puducherry in O.S.No.203 of 1968, in and by a judgment and decree dated 20.03.1970, in a suit which had been filed by the said Ramasamy @ Ramalinga Gramani. It is subsequent to the death of the said Ramasamy @ Ramalinga Gramani that the property came to vest with the defendants, who have entered into an agreement of sale with the

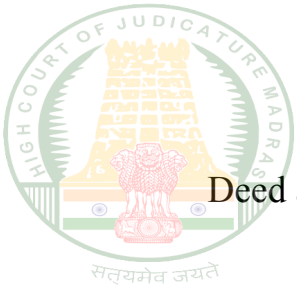


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plaintiff. The learned counsel for the petitioner would further submit that the impleading/proposed party admittedly claims under Balasoundara Mudaliar and Munisamy @ Sinouvassane, whose Sale Deed has already been set aside and the same has become final and therefore, even from this angle, the impleading application should not have been entertained.

4.The learned counsel for the petitioner would place reliance on the decision of the Hon'ble Supreme Court in *Gurmit Singh Bhatia Vs. Kiran Kant Robinson and Others*, reported in (2020) 13 SCC 773, where the Hon'ble Supreme Court held that in a suit for specific performance of a contract for sale of immovable property, an application for impleadment of even a subsequent transferee cannot be allowed against the wishes of the plaintiff who is the *dominus litis*. The Hon'ble Supreme Court further held that it is a risk that the plaintiff takes and the plaintiff can never be forced to join third parties in his suit.

5.Per contra, the learned counsel for the respondents would submit that the Trial Court had rightly allowed the application, finding that the impleading applicant had purchased the property under a registered Sale



Deed and he would therefore be a necessary party.

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6.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order of the Trial Court.

7.A suit for specific performance is one where a contract between two definite parties is sought to be enforced by one of them. The issues that arise in a suit for specific performance are only with regard to the validity of the said agreement between the parties and readiness and willingness of the plaintiff to perform his obligations under the said agreement of sale. Now the impleading applicant, who has been permitted to be impleaded by the Trial Court, claims right over the suit property under a registered Sale Deed.

8.It is the matter of different concern that the said Sale Deed has already been declared as null and void by the Sub-Court, Puducherry and the same has become final. Even otherwise as held by the Hon'ble Supreme Court, in a suit for specific performance, the plaintiff being the *dominus litis*, cannot be compelled to prosecute his case against persons whom he does not intend to. Moreover, the proper test for allowing an impleading

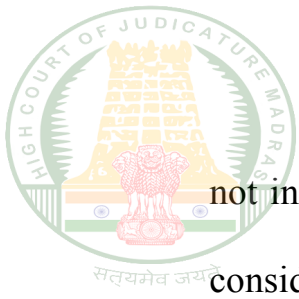


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application under Order I Rule 10 CPC is to ascertain whether such a party who seeks impleadment is a proper and necessary party, whose presence before the Court would be necessary to enable the Court to effectively and completely adjudicate and settle all questions involved in the said suit. Unfortunately, the Trial Court has not fallen back on this guiding principles while deciding an application for impleadment.

9.The Trial Court has failed to notice that the test is not whether the impleading party feels that his presence is necessary and that he is a proper party, but it is actually for the Court to decide whether the presence of such party would be necessary to decide the issues arising in the suit and in such circumstances, whether the proposed party is a proper and necessary party.

10.As rightly contended by the learned counsel for the petitioner, if the proposed party is impleaded and he is allowed to put forth his objections regarding his right, title and entitlement over the suit property, it will only enlarge the scope of the suit for specific performance. It is always open to the impleading applicant to workout his remedy independently in accordance with law and his presence in a suit for specific performance is



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not in any way going to enable the Court to decide the issues that arise for consideration in the suit for specific performance. The Trial Court has therefore clearly erred in allowing the impleading application. For all the above reasons, I find merit in the grounds raised by the learned counsel for the revision petitioner, challenging the said order.

11. In fine, the Civil Revision Petition is allowed and the order dated 28.10.2024 in I.A.No.685 of 2023 in O.S.No.168 of 2022 on the file of the II Additional District Judge, Puducherry, is hereby set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

04.07.2025

Speaking/Non-speaking order
Index : Yes/No
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To
The II Additional District Judge, Puducherry.



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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.No.276 of 2025
& CMP.No.1825 of 2025

04.07.2025