



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)Nos.1127 & 1087 of 2025

and

C.M.P.(MD)No.6076 of 2025

Mohan Dass

...Petitioner in both petitions

Vs.

1.N.Arulkumar

2.Ibrahim

3.Mathiyazhagan

...Respondents in both petitions

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of Constitution of India, to allow the revision and set aside the fair and decreetal order dated 24.01.2025 made in I.A.No.02 and 03 of 2024 in O.S.No.153 of 2024 on the file of the Subordinate Court, Mudukulathur.

In both petitions:

For Petitioners : Mr.PT.S.Narendravasan

For R1 : Mr.J.Senthil Kumaraiah

For R2 : No Appearance

For R3 : Mr.M.R.Srinivasan

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COMMON ORDER

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These petitions have been filed challenging the fair and decreetal order dated 24.01.2025 made in I.A.Nos.02 and 3 of 2024 in O.S.No.153 of 2024 on the file of the Subordinate Court, Mudukulathur.

2.The petitioner in both the petitions is the plaintiff in a suit in O.S.No. 153 of 2024 filed for specific performance as against the second and third respondents. The first plaintiff / second respondent herein is the owner of the property in Survey No.306/4A. He executed a power of attorney deed dated 04.05.2012 in favour of the second defendant. On the basis of the power granted by the first defendant, the second defendant sold the property to the plaintiff for the sale consideration of Rs.3,30,220/- on 28.06.2012 and the entire sale amount was paid on that date itself to the first defendant. Even after the sale agreement, the first and second defendant/ second and third respondents did not come forward to execute the sale deed in favour of the plaintiff. Thereby, the petitioner/plaintiff filed a suit in O.S.No.153 of 2024 on the file of the Sub Court, Muthukulathur seeking specific performance. Pending suit, the first respondent herein filed interlocutory applications in I.A.No.2 of 2024 under Order 1 Rule 10 (2) of CPC seeking to include himself as a defendant in the suit filed by the petitioner/plaintiff and I.A.No.3 of 2024 under Order 3 Rule 2 of



CPC seeking to recognize the power agent of the proposed defendant to contest the suit. The said applications were allowed by the trial Court. Challenging the same, the present Civil Revision Petitions are filed.

3.The learned counsel for the petitioner submits that the first respondent sought to be impleaded as a defendant in the suit solely on the ground that he has purchased the suit property from the first defendant through sale deed dated 11.07.2024. The learned counsel for the petitioner submits that the first respondent is an unnecessary party to the suit. The first respondent purchased the property in Survey No.306/4A on the western side to an extent of 4975 sq.feet. However, the sale agreement executed in favour of the petitioner relates to Survey Nos.306/3, 306/5A, 206/5B, 306/7A and 306/7B. The survey number mentioned in the sale deed in favour of the first respondent does not relate to the suit property. Hence, the first respondent is not a necessary party to the suit proceedings. However, without considering all these aspects, the applications filed by the first respondent were allowed.

4.The learned counsel for the first respondent submits that admittedly, the first defendant is the owner of the property. He executed a power of attorney deed in favour of the second defendant. The second defendant is none other than the son-in-law of the plaintiff. The suit filed by the plaintiff is a collusive suit. Further, though the sale deed executed in favour of the first respondent did

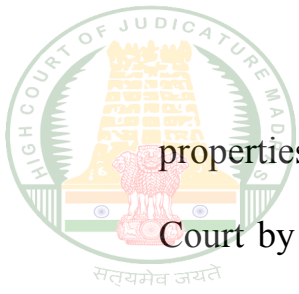


not reflect the survey numbers purchased by the plaintiff, the boundaries for the property mentioned in the sale agreement executed in favour of the plaintiff and the sale deed executed in favour the first respondent are identical. Hence, if the suit is allowed to be continued without impleading him as a party, the first respondent will be put to great hardship and it would amount to lost all his remedies. Thereby, he sought to implead himself as a defendant in the suit. The trial Court considering all these aspects, has allowed the said application and seeks to dismiss this petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials placed on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner filed a suit for specific performance. The first respondent herein wanted to implead himself as one of the defendants on the ground that the first defendant has sold the subject property to him and he is a necessary party to the suit proceedings and also to recognize him through his power agent.

7. The issue raised by the parties is a matter of fact that has to be decided on the basis of admissible documents and pleadings before the trial Court. It is alleged that though the survey numbers of the property purchased by the petitioner and the first respondent are different, the boundaries for the said two



properties are identical. Hence, the same has to be decided before the trial Court by adducing evidence. Further, the petitioner and the second defendant are closely related. Hence, considering the relationship between the parties, this Court feels that it is necessary to implead the subsequent purchaser in the suit proceedings. The trial Court has rightly appreciated all these aspects and allowed the applications filed by the petitioners and the same need not be interfered with. It is made clear that this Court has not expressed any opinion on the merits of the matter.

8. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2025

NCC: Yes/No
Index: Yes/No
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To:-

1. The Sub Court, Mudukulathur.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI, J.

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