



O.S.A.No.77 of 2026

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2026

CORAM

THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

O.S.A.No.77 of 2026

and C.M.P.No.10833 of 2026

V.Kausalya

.... Appellant

Vs

1. S.Harikrishnan

2. H.Shyamala

3. Rajasekaran

4. N.Narendiran

.... Respondents

Prayer : Original Side Appeal filed under Order XXXVI Rule 1 of Madras High Court Original Side Rules read with Clause 15 of the Letters Patent, to set aside the order dated 23.01.2026 made in Application No.49 of 2026 in C.S.No.426 of 2016.

For Appellant

: Mr.A.V.Arun

For Respondents

: No appearance

for R1 to R3

Mr.Adinarayana Rao for R4



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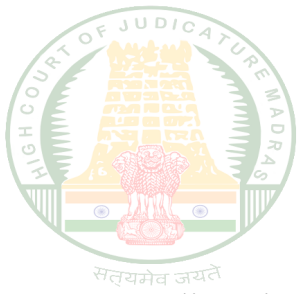
J U D G M E N T

(Judgment of the Court was made by P.Velmurugan, J.)

The present intra-Court appeal is directed against the order dated 23.01.2026 passed in Application No.49 of 2026 in C.S.No.426 of 2016, whereby the learned Single Judge allowed the application filed by the fourth respondent seeking impleadment as a party to the suit.

2. The appellant instituted C.S.No.426 of 2016 seeking, *inter alia*, a declaration that he is the sole legal heir of late Srinivasan and Ethirajammal; declarations that the settlement deeds, partition deed, deed of exchange and other documents executed in respect of the suit properties are null and void and not binding on him; a consequential permanent injunction; and in the alternative, a preliminary decree for partition and separate possession of his alleged half share in the suit schedule properties.

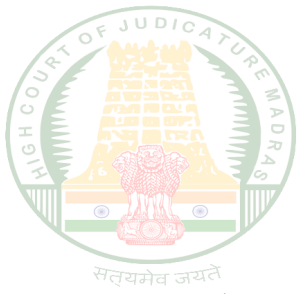
3. During the pendency of the suit, the fourth respondent, claiming to have purchased a portion of the 'E' schedule property through a series of



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alienations from the contesting defendants, filed A.No.49 of 2026 in C.S.No.426 of 2016 seeking to implead himself as a party to the suit. The learned Single Judge allowed the application holding that the presence of the fourth respondent would avoid future technical objections and facilitate an effective adjudication of the dispute. Aggrieved by the said order, the appellant has preferred the present intra-Court appeal.

4. Learned counsel for the appellant/plaintiff submitted that the learned Single Judge erred in allowing the application for impleadment filed by the fourth respondent, who is merely a *pendente lite* purchaser and has no independent right, title or defence in the subject matter of the partition suit. It was contended that the fourth respondent is no way connected with the family or the suit property, except as a subsequent purchaser and, even in his affidavit filed in support of the impleading application, has admitted that he is only a third-party purchaser. Having purchased the property during the pendency of the suit, he cannot claim any better title or right than that of his vendor. It was further submitted that the fourth respondent derives his claim only through the third defendant, who, in turn, derived title from defendants 1 and 2, and therefore cannot claim any higher or independent right than that of his

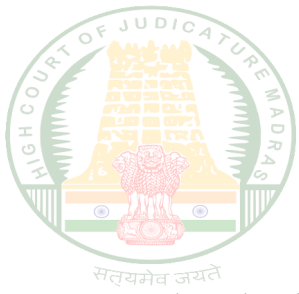


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predecessor-in-title.

5. Learned counsel further submitted that the application for impleadment was filed at the fag end of the proceedings, after completion of the trial, when the suit had been posted for final arguments, and was intended solely to protract the proceedings. It was argued that the fourth respondent, being a *pendente lite* purchaser, is neither a necessary nor a proper party to the suit, particularly when no relief has been sought against him, and that the plaintiff, being *dominus litis*, cannot be compelled to implead such a purchaser. It was also contended that the learned Single Judge allowed the application without affording the appellant a proper opportunity to oppose the impleadment and that the reasoning assigned by the learned Single Judge is legally unsustainable, especially when the fourth respondent is not a *bona fide* purchaser and his presence is unnecessary for the effective adjudication of the dispute among the co-sharers.

6. *Per contra*, the learned counsel appearing for the fourth respondent submitted that the fourth respondent is a *bona fide* purchaser and was not aware of the pendency of the suit at the time of purchase. It was contended that apart from the declaratory reliefs sought in the suit, the appellant/plaintiff also sought, in the alternative, partition and separate possession. It was further submitted



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that the fourth respondent claims an interest only in respect of a portion of the 'E' schedule property purchased by him and has no claim over the remaining suit properties. It was therefore, submitted that any decree passed in respect of the 'E' schedule property would directly affect his rights and hence, his presence is necessary for an effective and complete adjudication of the issues involved in the suit.

7. We have carefully considered the rival submissions and perused the materials available on record.

8. Despite service of notice and their names being printed in the cause list, there is no representation for respondents 1 and 2, either in person or through counsel.

9. It is not in dispute that the fourth respondent is a purchaser *pendente lite*. It is well settled law that a transferee *pendente lite* is bound by the doctrine of *lis pendens* and cannot claim a better title than that of his vendor. Such a purchaser ordinarily steps into the shoes of his vendor and takes the property subject to the result of the litigation.

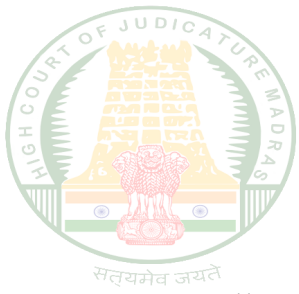


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10. In the present case, the fourth respondent, being a *pendete lite* purchaser, cannot claim any independent or superior right than that of his vendor. At the same time, as the fourth respondent claims rights under a sale deed in respect of a portion of the 'E' schedule property and any decree passed in relation thereto may affect his interest, his presence is necessary only to the limited extent of adjudicating the rights relating to the said property. However, he has no role to play in the adjudication of the appellant's claim for declaration or in respect of the remaining suit schedule properties, as he neither claims any right therein nor derives any interest in those properties.

11. In view of the foregoing discussion, we are of the considered opinion that the order passed by the learned Single Judge warrants modification. Accordingly, the order passed by the learned Single Judge is modified to the limited extent that the fourth respondent/fourth defendant shall participate in the suit only insofar as the portion of the 'E' schedule property is concerned. The fourth respondent shall file his written statement, confined to the said portion of the 'E' schedule property, within a period of fifteen(15) days from today, failing which he shall forfeit his right to file the written statement. It is also made clear that the fourth respondent/fourth defendant shall not be entitled to contest the



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appellant's claim for declaration or raise any defence with respect to the other suit schedule properties, and the suit shall proceed in respect of those issues without reference to the fourth respondent. The fourth respondent/fourth defendant participation in the suit shall be confined solely to the adjudication relating to the portion of the 'E' schedule property.

12. In the result, the appeal is partly allowed. The order dated 23.01.2026 passed in A.No.49 of 2026 in C.S.No.426 of 2016 by the learned Single Judge is modified to the extent indicated above. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(P.V.,J.) (K.G.T.,J.)
29.06.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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