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A No. 3215 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

A No. 3215 of 2025

1. Mr.Hemant Raj, and another
S/o.Sri Laxmi Raj, No.55, Nammalwar Street,
Chennai - 600 001.
2. M/s.H.MFOUNDATIONS Pvt Ltd
Rep.by its Director Hemant Raj, No.32,
Audiappa Naicken Street, Chennai 600 079.

..Applicant(s)

Vs

1. Mr. S.Kalyanasundaram
S/o.Sri K.Subramaniam,
2. Mrs.K.Vasantha,
W/o.S.Kalyanasundaram, Both residing at
16/12, A D Block, 5th Street, Anna Nagar,
Chennai - 600 040.
3. Mr.SPN.Sathyamurthy,
S/o.SP.Natarajan, SPN Illam, 152/A,
Kesavaperumal Puram, Greenways Road,
Chennai - 600 028.
4. Mr.A.D.Murugan,
S/o.A.Durairaj, No.13, Pulla Avenue, Shenoy
Nagar, Chennai - 600 030.



5. The Sub Registrar,
No.685, D, AJ Block, 2nd Street, Anna Nagar,
West Extension, Chennai - 600101.

6. The Tahsildar,
Aminjikarai, Gajalakshmi Colony, Shenoy
Nagar, Chennai - 600 030.

7. The ICICI Bank Limited
No. 193/104, 1st floor, Arcot Road, Vadapalani
Branch, Chennai - 600 026. (7TH
DEFENDANT IMPLEADED AS PER ORDER
DATED 10.11.2023 IN APPL.NO.1819/2023)

..Respondent(s)

PRAYER: The application has been filed under Order XIV Rule 8 of Original Side Rules read with Order I Rule 10(2) of Code of Civil Procedure praying to Implead the M/s.H.M.Foundations Pvt Ltd., Rep.by its Director, Hemant Raj, No.32, Audiappa Naicken Street, Chennai 600 079, as 2nd Proposed Plaintiff in the above suit C.S.No.65 of 2022.

For Applicant(s): Mr. K.V. Babu for M/s.D.Saikumarran

For Respondent(s): M/s. S. Saravana Kumar [for R1 and R2]
Mr. R. Balachandran [for R3]
Mr. V. Manisekaran [for R4]
Mr. Shivakumar & Suresh [for R7]



ORDER

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This application has been filed by the applicants to Implead the M/s.H.M.Foundations Pvt Ltd., Rep.by its Director, Hemant Raj, No.32, Audiappa Naicken Street, Chennai 600 079, as 2nd Proposed Plaintiff in the main Suit.

2. According to the Plaintiff, he is the Plaintiff in the main Suit, which is filed for declaration in respect of Sale deed and to perform an unregistered Sale Deed dated 29.12.2017 and to handover vacant possession of the property and to pay compensation. Subsequently, the 1st Plaintiff filed an application for amendment to declare the mortgage deed as null and void and the same was allowed. The sale deed has been executed in the name of nominee of the proposed 2nd Plaintiff. The sale price has been paid and the sale was completed under the eye of law and the registration formality alone is pending, which is administrative in nature. The defendants have executed the Sale Deed in favour of M/s. H M Foundations Pvt. Ltd., nominee of the Plaintiff. The 1st defendant has consciously executed the Sale Deed dated 29.12.2017 to the nominee of the Plaintiff, M/s. H M Foundations Pvt. Ltd. Therefore, the right, title and interest in the property is conveyed by the 1st defendant to the 2nd proposed Plaintiff and the same cannot be again conveyed to the 3rd defendant. Though registration of



the sale was pending for other various reasons, but the agreement of sale and the subsequent sale deed conveyed by the 1st and 2nd defendants were all registered and the other documents of sale agreement and powers executed by the 1st defendant are created to give colour to the missing certificate received fraudulently and to defraud the Plaintiff and the proposed 2nd Plaintiff. Therefore, the proposed party is appropriate and necessary party to decide the Suit effectively and it is the proper and necessary party.

3. The respondents filed a counter denying the averments made in the affidavit. The 3rd respondent purchased the 'C' schedule property under a Sale Deed dated 10.01.2018 and the impleading petition is not maintainable. The proposed party, who is the party to an unregistered Sale Deed dated 29.12.2017, alone is entitled to seek relief in obtaining the specific performance of the sale agreement arising under an unregistered Sale Deed dated 29.12.2017. The proposed party ought to have filed the Suit to obtain specific performance of the Sale agreement within 3 years. Therefore, the Suit is barred by limitation. The main prayers in the Suit itself is not maintainable. Now the applicants attempting to withdraw the admissions made in the Plaint. Therefore, the present impleadment and the amendment will alter the nature and character of the Suit and strongly opposed to allow this application.

4. Heard both sides and perused the entire materials available on record.



5. The application has been filed by the applicants to implead the 2nd applicant in the main Suit. The Suit has been filed for the reliefs of declaration in respect of Sale deed and to perform an unregistered Sale Deed dated 29.12.2017 and to handover vacant possession of the property and to pay compensation. According to the applicants, pursuant to the registered agreement between the 1st petitioner and the defendants 1 and 2, they executed a Sale Deed dated 06.05.2015 and conveyed 5 grounds 482 sq. ft. in respect of 'B' Schedule property and the said deed was registered in favour of the nominee of the Plaintiff namely M/s. H M Foundations Pvt. Ltd., and also the 1st defendant executed a Sale Deed dated 27.12.2017 in respect of 'C' Schedule property, thereafter, the 1st defendant did not turn up for registration. Therefore, the Plaintiff filed the Suit. Since the sale deed is in the name of the nominee of the Plaintiff, the proposed party M/s. H M Foundations Pvt Ltd., is also a proper and necessary party to the Suit. The only contention raised by the respondents is that though the Sale Deed was executed in the name of the proposed party as early as on 27.12.2017, he has not included the original party to the Suit and therefore, the Suit is barred by limitation. As far as limitation is concerned, it is mixed with fact and law, hence the same can be decided at the time of trial and since the Sale Deed is obtained in the name of the proposed party nominated by the Plaintiff, the 2nd Plaintiff is also a proper and necessary party to the Suit and without his presence, the Suit cannot be disposed of effectively. Therefore, it is



appropriate to allow this application.

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6. Accordingly, the application is *allowed*.

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