



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C.,  
AT: MAGADI.**

**Present:**

**Sri. Sandeep S. Reddy, B.A., LL.B.,**  
Addl. Sr. Civil Judge & JMFC., Magadi.

**DATED: THIS THE 1<sup>st</sup> DAY OF APRIL, 2024**

**O.S.No.390/2016**

- Plaintiffs** : 1. DLF Limited,  
Registered office at:  
Shopping Mall, 3<sup>rd</sup> Floor, Arjun Marg,  
Phase I DLF City, Gurgaon,  
Haryana – 122 002.  
Head Office at:  
DLF Centre,  
Sansad Marg, New Delhi – 110 001.  
Branch Office at :  
DLF New Town,  
Akshaya Nagar Main Road,  
Begur, Bengaluru – 560 068.
2. Bengaluru Divinity LLP,  
A Limited liability Partnership,  
Having its registered office  
At No. 8.3.833, Plot No.37 & 38,  
Phase - 1, Kamalapuri Colony,  
Hyderabad - 570 073.  
Represented by its SPA Holder  
Sri. B. Prabhakar,  
S/o. D. Venkatanarayanareddy,  
Aged about 50 years,  
R/at: No.1-3-183/40/198-199,  
Celestial Abode, SBI Staff Colony,  
Gandhinagar, Secunderabad,  
Hyderabad, Telangana - 570080,

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Now in Bengaluru Camp.

(By **Sri. G.N.H.**, Advocate)

--- V/s ---

- Defendants** :
1. Sri. V.Ravikumar,  
S/o H.S. Venkata Rao,  
Aged about 45 years,  
Previously R/at  
Varthuru Village, Tavarekere Hobli,  
Bengaluru South Taluk,  
Bengaluru – 562 130.  
Also R/at  
No.96/97, 7<sup>th</sup> Cross, K.Rl.Layout,  
J.P.Nagar, VI Phase,  
Bengaluru – 560 078.
  2. Sri. Baldev ShirvaLal @  
Baldev Krishna Lal,  
S/o R.B.Kundan Lal,  
Aged about 48 years,  
R/at Gangenahalli Village,  
Tavarekere Hobli,  
Bengaluru South Taluk,  
Bengaluru Urban District.
  3. Sri. Bhupendra Singh,  
S/o S.B.Narender Singh,  
Aged about 47 years,  
R/at Gangenahalli Village,  
Tavarekere Hobli,  
Bengaluru South Taluk,  
Bengaluru Urban District.

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4. Sri. Meenakshaiah,  
S/o late Venkataramanappa,  
Aged about 45 years,  
R/at No.18, 5<sup>th</sup> Cross,  
Rajarajeswarinagar, Laggere,  
Bengaluru – 560 058.
5. Sri. Chandrahas,  
S/o Siddappa,  
Aged about 41 years,  
R/at No.53, Vididasoudha Layout,  
Kavidamanagara, Laggere,  
Bengaluru – 560 058.
6. Senior Sub-Registrar,  
Rajarajeshwari Nagar Division,  
Jayanagar Registration District,  
No.25, D.M. Chambers,  
Jawaharalalnehru Road, BEML Road,  
3<sup>rd</sup> Stage, Rajarajeshwarinagar,  
Bengaluru – 560 098.
7. The District Registrar,  
Jayanagar Registration District,  
Department of Stamps and Registration,  
Government of Karnataka,  
Office at: No.26, 1<sup>st</sup> Floor, 12<sup>th</sup> Main Road,  
4<sup>th</sup> Block, Near Jayanagar complex,  
Jayanagar, Bengaluru – 560 011.

(D1 by **Sri. B.V.M.**, Advocate)  
(D2, 3, 6 & 7 **Exparte**)

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**ORDER ON IA NO.24, 26 to 37 U/O.I R.10(2) of C.P.C.,**

The aforesaid the applications are filed by the impleading applicants to permit them to come on record in the aforesaid suit as defendants.

2. The aforesaid suit is for declaration, possession, permanent injunction and consequential reliefs.

3. The impleading applicant in I.A.No.24 has stated in the accompanying affidavit that, sites were carved out of the schedule property and that the impleading applicant had purchased site bearing No.119, measuring 30X40 feet in Sy.No.4 of the Vartur Narsimhapura Village for valuable consideration. That, the purchaser was put in possession of the schedule property through registered sale deed dated: 22.03.2017. That, there are numerous site owners who have purchased the sites through the developed layout. That, there is a reasonable apprehension that defendant No.1 to 5 who had developed the layout and sold the sites to the proposed defendants were colluding with the plaintiffs with the ulterior intention. That in order to safeguard the

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interest of themselves and their possession, the proposed defendants wants to get himself impleaded.

4. In the accompanying affidavit to I.A.No.25 the impleading applicants state that, they are the absolute owners of the sites bearing No.102, 109, 110, 124 and 130 formed in Sy.No.4 of Vartur Narsipura Village. That, they are in possession of the sites and have got the records mutated in their names. That, the consumer complaints at Principal District Consumer Disputes Redressal Forum, Bangalore in C.C.No.181/2021 and other complaints against defendant No.4 and 5 and one Unique Trading Corporation Pvt. Ltd., were filed. That, they appeared before the Consumer Forum and filed their objections. Through the said objections they came to know about the pendency of the aforesaid suit and hence have appeared before this court to protect their rights and interest. Hence, they say that they are necessary parties to the aforesaid suit and pray for permitting them to get impleaded.

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5. The accompanying affidavit to I.A.No.26 reads that, the proposed defendant has purchased the site bearing No.92 in the said layout formed in the schedule property. They say that, they are the necessary parties to the aforesaid suit.

6. The accompanying affidavit to I.A.No.27 reads that, the proposed defendant has purchased the site bearing No.128 in the said layout formed in the schedule property. That, he has purchased the site on 03.02.2017 through a registered sale deed.

7. In the accompanying affidavit to I.A.No.28 the impleading applicant has stated that, she is the owner of site No.146 tracing her title to the sale transaction dated: 28.04.2017. That, she is a proper and necessary party to the aforesaid suit and that she should be permitted to get impleaded in the aforesaid suit.

8. In the accompanying affidavit to I.A.No.29 the impleading applicant has stated that, he is the owner of site No.99 tracing his title to the sale

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transaction dated: 28.04.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

9. In the accompanying affidavit to I.A.No.30 the impleading applicant has stated that, he is the owner of site No.177 tracing his title to the sale transaction dated: 31.05.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

10. In the accompanying affidavit to I.A.No.31 the impleading applicant has stated that, he is the owner of site No.220 & 221 tracing his title to the sale transaction dated: 16.10.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

11. In the accompanying affidavit to I.A.No.32 the impleading applicant has stated that, he is the owner of site No.98 tracing his title to the sale

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transaction dated: 28.04.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

12. In the accompanying affidavit to I.A.No.33 the impleading applicant has stated that, he is the owner of site No.176 tracing his title to the sale transaction dated: 31.05.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

13. In the accompanying affidavit to I.A.No.34 the impleading applicant has stated that, he is the owner of site No.133 tracing his title to the sale transaction dated: 28.04.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

14. In the accompanying affidavit to I.A.No.35 the impleading applicant has stated that, he is the owner of site No.97 tracing his title to the sale

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transaction dated: 28.04.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

15. In the accompanying affidavit to I.A.No.36 the impleading applicant has stated that, he is the owner of site No.103 & 108 tracing his title to the sale transaction dated: 31.05.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

16. In the accompanying affidavit to I.A.No.37 the impleading applicant has stated that, he is the owner of site No.178 tracing his title to the sale transaction dated: 28.04.2017 and he is a proper and necessary party to the aforesaid suit and that he should be permitted to get impleaded in the aforesaid suit.

17. The plaintiff has filed objection stating that, the impleading applicants has no right, title and interest with respect of suit schedule

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property. That, the suit is pending from 2016 and that the impleading applicants had purchased the alleged site on 22.03.2017 which clearly goes to show that, the impleading applicants are subsequent purchasers. That, they are not proper and necessary parties in view of the judgement rendered by the Hon'ble Supreme Court of India. That, no authentic documents are produced by the impleading applicant and that they are not necessary parties to adjudicate the aforesaid suit. That, the plaintiff would be put the great hardship if the aforesaid applications are allowed.

18. Heard learned advocates for impleading applicants and plaintiff.
19. Considering the contentions of the parties, following points arise for my consideration.
  1. Whether the impleading applicants have made out a case to come on record as necessary parties in the aforesaid suit?
  2. What order?

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20. My findings for the above points are as under.

Point No.1 : In the Affirmative.

Point No.2 : As per final order

For the following,

### **REASONS**

21. **Point No.1**:- All the applications filed by the parties U/O.I R.10 praying for impleading themselves as parties to the aforesaid have been filed by contending that, the parties have either purchased the property in the form of site on 28.04.2017 or 31.05.2017.

22. The parties hereto are the lis-pendent purchasers. Sec.52 of Transfer of Property Act is applicable to the case on hand. Sec.52 of Transfer of Property Act provides for the transfer of property pending suit relating thereto.

23. The Hon'ble Supreme Court of India in ***Sanjay Verma v. Manik Roy***, (2006) 13 SCC 608 : 2006 SCC OnLine SC 1371 at page 612 has **stated as under;**

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***"12. The principles specified in Section 52 of the TP Act are in accordance with equity, good conscience or justice because they rest upon an equitable and just foundation that it will be impossible to bring an action or suit to a successful termination if alienations are permitted to prevail. A transferee pendente lite is bound by the decree just as much as he was a party to the suit. The principle of lis pendens embodied in Section 52 of the TP Act being a principle of public policy, no question of good faith or bona fide arises. The principle underlying Section 52 is that a litigating party is exempted from taking notice of a title acquired during the pendency of the litigation. The mere pendency of a suit does not prevent one of the parties from dealing with the property constituting the subject-matter of the suit. The section only postulates a condition that the alienation will in no manner affect the rights of the other party under any decree which may be passed in the suit unless the property was alienated with the permission of the court.***

***14. Learned counsel for the respondents submitted that since they are not parties in the suit, their interest will get jeopardised. It is a trite law that if a person is not a***

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**party to a suit, the decree does not affect him unless the judgment is in rem and not in personem."**

24. The aforesaid Judgement of Hon'ble Supreme Court of India clearly states that, when Sec.52 of Transfer of Property Act comes into picture and when the party has alienated the suit property without the leave of the Court, it is the Trit Law that the subsequent purchaser should be made a party to the suit.

25. In this case, the defendants have alienated the schedule property in the form of sites. It is not clear whether there was collusion, malafide intent or any other reason as to why such alienations were made. During the course of the proceedings in the aforesaid case the aforesaid facts would come to the light. However, at present the impleading applicants have contended that, if they are not allowed to contest the suit, they would be put to hardship.

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26. The impleading applicants have produced the encumbrance certificate and their sale deeds to show that, they have purchased a part of the schedule property.

27. The Hon'ble Supreme Court of India in ***Amit Kumar Shaw v. Farida Khatoon***, (2005) 11 SCC 403 : 2005 SCC OnLine SC 768 at page 410 has stated as under;

***"15. Section 52 of the Transfer of Property Act is an expression of the principle "pending a litigation nothing new should be introduced". It provides that pendente lite, neither party to the litigation, in which any right to immovable property is in question, can alienate or otherwise deal with such property so as to affect his appointment. This section is based on equity and good conscience and is intended to protect the parties to litigation against alienations by their opponent during the pendency of the suit. In order to constitute a lis pendens, the following elements must be present:***

- 1. There must be a suit or proceeding pending in a court of competent jurisdiction.***
- 2. The suit or proceeding must not be collusive.***

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- 3. The litigation must be one in which right to immovable property is directly and specifically in question.***
- 4. There must be a transfer of or otherwise dealing with the property in dispute by any party to the litigation.***
- 5. Such transfer must affect the rights of the other party that may ultimately accrue under the terms of the decree or order.***

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*16 [Ed.: Para 16 corrected vide Official letter dated 25-8-2005.] . The doctrine of lis pendens applies only where the lis is pending before a court. Further pending the suit, the transferee is not entitled as of right to be made a party to the suit, though the court has a discretion to make him a party. But the transferee pendente lite can be added as a proper party if his interest in the subject-matter of the suit is substantial and not just peripheral. A transferee pendente lite to the extent he has acquired interest from the defendant is vitally interested in the litigation, where the transfer is of the entire interest of the defendant; the latter having no more interest in the property may not properly defend the suit. He may collude with the plaintiff. Hence, though the plaintiff is under no obligation to make a lis pendens transferee a party, under Order 22 Rule 10 an alienee pendente lite may be joined as party. As already noticed, the court has discretion in the matter which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests. The court has held that a transferee pendente lite of an interest in immovable property is a representative-in-interest of the party from whom he has acquired that interest. He is entitled to be impleaded in the suit or other proceedings*

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**where his predecessor-in-interest is made a party to the litigation; he is entitled to be heard in the matter on the merits of the case."**

28. The Hon'ble Supreme Court of India in ***Thomson Press (India) Ltd. v. Nanak Builders & Investors (P) Ltd.***, (2013) 5 SCC 397 : (2013) 3 SCC (Civ) 1 : 2013 SCC OnLine SC 174 at page 424 has stated as under;

***"54. The third dimension which arises for consideration is about the right of a transferee pendente lite to seek addition as a party-defendant to the suit under Order 1 Rule 10 CPC. I have no hesitation in concurring with the view that no one other than the parties to an agreement to sell is a necessary and proper party to a suit. The decisions of this Court have elaborated that aspect sufficiently making any further elucidation unnecessary. ...."***

***55. We are not on virgin ground insofar as that question is concerned. Decisions of this Court have dealt with similar situations and held that a transferee pendente lite can be added as a party to the suit lest the transferee suffered prejudice on account of the***

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*transferor losing interest in the litigation post transfer. In Khemchand Shankar Choudhari v. Vishnu Hari Patil [(1983) 1 SCC 18] this Court held that : (SCC p. 21, para 6)*

*6. ... The position of a person on whom any interest has devolved on account of a transfer during the pendency of a suit or a proceeding is somewhat similar to the position of an heir or a legatee of a party who dies during the pendency of a suit or a proceeding....*

*Any such heir, legatee or transferee cannot be turned away when she applies for being added as a party to the suit. The following passage in this regard is apposite : (SCC pp. 20-21, para 6).*

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***6. Section 52 of the Transfer of Property Act no doubt lays down that a transferee pendente lite of an interest in an immovable property which is the subject-matter of a suit from any of the parties to the suit will be bound insofar as that interest is concerned by the proceedings in the suit. Such a transferee is a representative in interest of the party from whom he has acquired that interest. Rule 10 of Order 22 of the Code of Civil Procedure clearly recognises the right of a transferee to be impleaded as a party to the proceedings and to be heard before any order is made. It may be that if he does not apply to be impleaded, he may suffer by default on account of any order passed in the proceedings. But if he applies to be impleaded as a party and to be heard, he has got to be so impleaded and heard. He can also prefer an appeal against an order made in the said proceedings but with the leave of the appellate court where he is not already brought on record. The position of a person on whom any interest has devolved on account of a transfer during the pendency of any suit or a proceeding is somewhat similar to the position of an heir or a legatee of a party who dies during the pendency of a suit or a proceeding, or an Official Receiver who takes over the assets of such a party on***

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*his insolvency. An heir or a legatee or an Official Receiver or a transferee can participate in the execution proceedings even though their names may not have been shown in the decree, preliminary or final. If they apply to the court to be impleaded as parties they cannot be turned out. (emphasis supplied)*

*To the same effect is the decision of this Court in Rikhu Dev vs. Som Dass [(1976) 1 SCC 103] .*

*57. To sum up:*

*57.1. The appellant is not a bona fide purchaser and is, therefore, not protected against specific performance of the contract between the plaintiffs and the defendant owners in the suit.*

*57.2. The transfer in favour of the appellant pendente lite is effective in transferring title to the appellant but such title shall remain subservient to the rights of the plaintiff in the suit and subject to any direction which the Court may eventually pass therein.*

*57.3. Since the appellant has purchased the entire estate that forms the subject-matter of the suit, the appellant is entitled to be added as a party-defendant to the suit."*

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29. The impleading applicant is a pendente lite transferee. He has every right to be impleaded as per Order 22 Rule 10 of C.P.C. The Hon'ble High Court of Karnataka in **Venkataramaiah Shetty V/s. B. R. Seetharamappa Shetty & Ors., 2007(1) KAR LJ 495** had held that, the sale of property by a owner during the pendency the suit for declaration of title and perpetual injunction would entitle the purchaser or the purchaser has locus standi and right to come on record as plaintiff to prosecute the pending suit.

30. Further, Hon'ble High Court of Karnataka in **K. S. Lokaiah V/s. M. V. Shivaraiiah 2008(1) KAR LJ 146** has held that, the Trial Court had erred in rejecting an application U/O.I R.10 of C.P.C., filed by the purchaser of the property during the pendency of the suit.

31. Hence, the impleading applicant has subsisting interest in the aforesaid suit by virtue of execution of sale deed. That, by virtue of O.22 R.10 he has the statutory right to be impleaded.

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32. The plaintiff has further produced the memo with documents to show that, the copy of registered sale deed dated: 11.11.2021, khata extracts and tax paid receipts are produced. The said documents are not relevant for the point of discussion in the aforesaid suit.

33. Further, it should also be noted that, prima-facie there is nothing on record to show that, the impleading applicants had purchased the property with the malafide intent. It seems that, the impleading applicants are the bonafide purchasers of the portion of the schedule property. They are necessary parties to the aforesaid suit. Any judgement passed in the aforesaid suit would adversely affect. Hence, they are necessary parties. Hence, I answer point No.1 in the affirmative.

34. **Point No.2:-** In view of reasons on point no.1, and in the interest of Justice and equity, I proceed to pass the following,

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**ORDER**

**IA No. 24, 26 to 37 filed U/o. I Rule 10 (2) R/w. Sec.151 of CPC by impleading applicants/proposed defendants praying to implead themselves as defendants in the aforesaid suit is hereby allowed.**

**They are hereby directed to be impleaded as defendants**

**The plaintiff is hereby directed to carryout amendment to the plaint.**

**The parties to bear their respective costs.**

**For amendment and to furnish amended plaint by 30.05.2024.**

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **1<sup>st</sup> day of April, 2024.**)

**(Sandeep S. Reddy)  
Addl. Sr. Civil Judge & JMFC.,  
Magadi.**