

IN THE VI ASSISTANT CITY CIVIL COURT AT CHENNAI

Present: Thiru.P.Sundararajan., L.LM.,

V Assistant Judge.

VI Assistant Court (FAC)

Thursday, the 11th day of January, 2024

I.A.No.01 of 2022

in

OS No.1288 of 2022

CNR.NO. TNCH01-036737-2021

1. Geetha,
2. Parthiban,
3. Velu,

...Petitioners/Defendants

//Vs//

1. Rani
 2. Girja,
 3. Thayagarajan,
 - 4.The Chairman,
- Tamilnadu Slum Clearance Board,
Chepauk, Chennai-600 005.

..Respondents/Plaintiffs

..4th Respondent/Proposed 4th Defendant

This application came up before me on 07.12.2023 for final hearing in the presence of M/s. R.Ramesh, S.P.Kumanan, G.Cheran counsels for the petitioners/Defendants, M/s. S.Y.Eswaran, S.Subramanian, S.John peter counsels for the respondents/Plaintiffs, 4th respondent called absent, set exparte and upon perusal of case records and after hearing the arguments submitted by both sides and this application having stood over for consideration till this day this court delivered the following :

ORDER

This petition has been filed by the defendants under Order I Rule 10(2) of The Code of Civil Procedure, 1908 to implead the 4th respondent herein as 4th defendant in the above suit in OS No.1288 of 2022.

01. POINT FOR CONSIDERATION:

Whether this petition is to be allowed or not?

02. ON THE POINT:

The learned counsel who appears for the petitioners herein would submit that the suit property originally belongs to Tamilnadu Slum Clearance Board and the same was allotted in favour of one Jayaraman who is the grandfather of the plaintiffs as well as defendants herein by the TNSCB. The plaintiffs took possession of the suit property and the daughters of Jayaraman decided to construct the superstructure in the suit property and in such circumstances the Jayaraman died. After his demise the legal heirs of Jayaraman orally partitioned the suit property and the father of the plaintiffs Jaganathan constructed a superstructure over the share allotted to him and mother of the defendants constructed superstructure in her respective share. Kalavathy also put up a construction in the property allotted to the father of the petitioners and thereafter Kalavathy's legal heirs relinquished their share in favour of the plaintiffs after receiving the amount. Without obtaining NOC from the mother of the

petitioners or Kalavathy executed a sale deed in favour of the plaintiffs' father on 12.11.1996 and the same was registered on 15.10.1999.

03. The learned counsel further would submit that on 03.02.2021 the plaintiffs issued a legal notice the petitioners and thereby called upon them to vacate and handover the vacant possession "B" schedule property and for which the petitioners had issued reply notice on 08.01.2021 and for which the plaintiffs had sent re-joinder on 02.03.2021 and thereafter filed this suit. The plaintiff's father Jaganathan has obtained sale deed in his favour by colluded with the Slum Clearance Board authorities illegally. The petitioners herein have been paying necessary taxes in respect of 'B' schedule property and paid the amount to the Slum Clearance Board through the plaintiffs however, they have cunningly paid the amount in their own name. Suppressing all the material fact, the plaintiffs trying to grab the whole property hence, in order to bring out the truth, the Slum Clearance Board has to be impleaded as 4th defendant in the suit as a necessary party.

04. Per contra, the learned counsel who appears for the respondents herein would submit that the reasons stated by the petitioners in their petition to implead the 4th respondent as 4th defendant in the suit is not satisfying the ingredients as envisaged under Order I Rule 10 of The Code of Civil Procedure, 1908. The Jaganathan never received any money from the petitioners' mother or from the petitioners at no point of time either to pay

taxes or for any other reasons. After execution of the sale deed, the Tamil Nadu Slum Clearance Board has become stranger to the suit property and having no direct interest in subject matter of litigations and no prayer has been made against the 4th respondent in the suit. No cause of action pleaded against the Slum Clearance Board hence, the 4th respondent cannot be impleaded as necessary party to the suit. Hence, this petition is liable to be dismissed.

05. Rival submissions made by both sides heard, materials on record perused and considered. In support of the contention of the petitioners 11 documents have been marked as Ex.P1 to Ex.P11 and no exhibits marked on the side of the respondents and no oral evidence was let in on both sides. The petitioners raising an allegations that the 4th respondent namely the Slum Clearance Board colluded with the plaintiffs' father Jaganathan executed sale deed in his favour illegally. Before, executing the sale deed the 4th respondent ought to have obtained no objection certificate from the mother of the petitioners or Kalavathy however, it has not chosen to do so hence the 4th respondent has to be impleaded as 4th respondent in the suit.

06. If at all the contention of the petitioners that the father of the respondents namely the Jaganathan colluded together with the Slum Clearance Board and obtained sale deed in his favour in a fraudulent manner, it is upon the petitioners to establish the same in what manner the

fraud was played upon and in what way they are having right over the suit property by producing necessary evidence and the petitioners are at liberty to call for any records from the Slum Clearance Board in respect of the suit property and thereby prove their contention. Moreover, the petitioners have not chosen to mention any valid reasons to show that without impleading the 4th respondent as party to this suit, the list involved in the suit cannot be adjudicated. In such circumstances, the 4th respondent is the unnecessary party to this suit. No purpose is going to be served in the suit by impleading the 4th respondent as 4th defendant in this suit. Therefore, for the foregoing reasons, this court is of the considered view that the 4th respondent is not a necessary or property party to this suit hence, this petition is liable to be dismissed. Thus, this point is answered accordingly.

In the result, this petition is dismissed. That there shall be no order as to cost.

Directly dictated to the steno-typist, and corrected and pronounced by me in the open court on this the 11th day of January, 2024.

**V Assistant Judge,
(FAC) VI Assistant Court
City Civil Court,**

01. Petitioners side witness :- Nil

02. Petitioners side Exhibits:-

S.No	Date	List of Documents
Ex.P1	15.02.1977	Xerox copy of the rental receipt paid by one Jayaraman in favour of Tamil Nadu Slum Clearance Board (marked after compared with original)
Ex.P2	01.10.1986	Proceedings of the Chairman of Tamil Nadu Slum Clearance Board allotting in the suit property in favour of Jayaraman(marked after compared with original)
Ex.P3	16.03.2023	Certified copy of Death certificate of Jayaraman
Ex.P4	-	Ration card of Murugammal (Xerox)
Ex.P5	02.08.2022	Death Certificate of Murugammal (Certified copy)
Ex.P6	03.07.2019	Legalheir certificate of Thanappan (Xerox copy)
Ex.P7	=	Xerox copy of diary entry (marked after comparing with original)
Ex.P8	-	Aadhar card of Geetha(xerox)
Ex.P9	-	Aadhar card of Parthiban (Xerox)
Ex.P10	-	Aadhar card of Velu(Xerox)
Ex.P11	-	Colour photographs along with CD

03. Respondents side witness and Exhibits :- Nil

**V Assistant Judge,
(FAC) VI Assistant Court
City Civil Court,**