

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : **Tmt.N.Renuga.**, B.A., B.L.,

District Munsif, Sulur

Thursday the 22nd day of August 2024

I.A.No.5/2023

in

O.S.No.192/2021

Kandhasamy

... Petitioner/ Plaintiff

/VS/

1. S.V.Palanisamy

2. S.V.Easwaran

3. Village Administrative Officer,

Neelambur

4. Thasildar, Sulur

...Respondents/Defendants

5. S.Periyasamy

...Respondents/ Proposed party

This petition is coming on 19.08.2024 for final hearing before me in the presence of Thiru.M.Jayanthinathan, Advocate for the Petitioner and Thiru.E.Gopalakrishnan, Advocate for the 1st and 2nd Respondents and Thiru.S.Prakash, Advocate for the 5th Respondent/Proposed party and upon hearing both side enquiry and perusing the records, and this court made the following:

ORDER

This petition filed Under Order 1 Rule 10 of CPC to implead the proposed party in this suit as proposed party.

1. The brief averments of the affidavit filed by the petitioner as follows:

1.1. The petitioner/plaintiff have filed the suit against the defendants for the relief of declaration and permanent injunction. The suit was filed on 20.10.2021 and the respondent/defendant also received a summons and court notice.

1.2. After receiving the court notice on 19.09.2022 the 1st and 2nd respondents/

defendants have filed vakalath through their councils. On the 3rd and 4th respondents/defendants were set exparte. During the list pendence of this suit and Ad-interim injunction application, the 1st respondent/defendant had executed a sale deed in favour of the respondent/proposed party. Even after entering appearance in this suit the 1st respondent/defendant had executed a sale deed vide doc.No.19324/2022 in favour of the respondent/proposed party.

1.3. Further inspite of List pendens of this suit and with the undue influence of the 1st respondent/defendant executed a sale deed in favour of the respondent/proposed party. After getting the EC for this suit mentioned property the petitioner/plaintiff came to know about these transactions.

1.4. The proposed parties are necessary parties to this suit hence, necessary amendment, as described in the plaint must be made in this suit. Otherwise, the petitioner/plaintiff will be put into much loss and hardship. Hence, the petition.

2. The brief averments of Counter statement filed by the 2nd and 3rd Respondents as follows:

2.1. The petition is false, frivolous not maintainable either in law or on facts of the case. The petitioner has wrongly stated that the while Ad-interim injunction application was pending the 1st respondent has executed sale deed in favour of proposed party but in real IA.No.1/2021 closed by this court on 17.10.2023. Hence, petitioner has not come with these court clean hands.

2.2. The petitioner has not furnished that encumbrance certificate before this court to show that how he gained knowledge. The real dispute for title is between the petitioner with 3rd and 4th defendant herein, hence the 1st respondent can very well sell his property as his desires. In addition to that this respondent has already stated int heir written statement that this petitioner has no valid title to claim as mentioned in the plaint.

2.3. There is no merit in the application as it is total deviation from the main suit and nothing but an attempt to create some cloud over the title of this respondent to their properties. Hence, the petition is to be dismissed.

3. Point for consideration:-

Whether the petition under Order 1 Rule 10 of CPC to implead the proposed party in this suit as proposed party is to be allowed?

4. Points:-

4.1. Heard both side, perused the records. The suit is for declaration and permanent injunction. The present petition filed by the plaintiff to implead the 5th respondent/ Proposed party as defendant in this case. Since, the 5th defendant purchased the property from the 1st defendant. In the counter 1st and 2nd respondent had stated that the 1st defendant without title have sold the suit property to the 5th respondent/ Proposed party.

4.2. On perusal of records, the suit for declaration and permanent injunction and there is a sale deed in the name of 5th respondent/ proposed party, this court finds he should ordered as necessary party to this proceedings to decide the matter in issue under order 1 rule 10(2) of CPC. Further the proposed 5th respondent have stated no counter for this impleading petition.

In the result, this petition is allowed. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 22nd day of August 2024.

Sd/N.Renuga
District Munsif,
Sulur.

List of witnesses and documents on Petitioner side:-

Nil

List of witnesses and documents on Respondents side:-

Nil

Sd/N.Renuga
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.5/2023 in
O.S.No.192/2021
Dated : 22.08.2024
DMC, Sular