

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CHIDAMBARAM**PRESENT: Tmt. S.SUGANIYA SRI B.A.B.L (Hons), M.L., PGDAML****ADDITIONAL DISTRICT MUNSIF, CHIDAMBARAM****TUESDAY, THE 6TH DAY OF APRIL 2023****IA.519/2022 IN OS.NO.103/2013**

Swaminathan

..... Petitioner/Plaintiff

/Vs/

1. The Tahsildar,
Chidambaram Taluk.
2. The State of Tamil Nadu represented
By its Collecotor, Cuddalore District.
3. The Tahsildar,
Bhuvanagiri Taluk.
4. Ramalinga Mudaliar (died)
5. Chandrasekara Mudaliar(died)
6. Parvathavarthini
7. Balakumar
8. Narayanakumar
9. Gurunathan
10. Suryamoorthy
11. Manimegalai
12. R.Jayavel
13. R.Gnanavel
14. R.Thenappan
15. C.Vijayalakshmi
16. C.Somasundaram
17. C.Surendar
18. Jeevanandham

....Respondent/1 to 17 Defendants/
Proposed party

For Petitioner	Thiru.A.Sambantham, Advocate
18 th respondent	Set exparte for non-appearance before this court.
For 7 th respondent	Thiru.V.Ravichandran, Advocate
Respondents 12, 13	Set exparte in suit already. Therefore, their notice is dispensed with.

Respondents 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 14, 15, 16, 17.	Set exparte for Non-filing of counter in petition
Relief Claimed	Petition filed under Order 1 Rule 10(2) & Section 151 of CPC to implead 18 th respondent in the suit as defendant.
Final Hearing	21.03.2023

Upon hearing the arguments of both side Learned counsels and on perusal of the entire records and having stood over for consideration till this day, this court delivers the following

ORDER

The case of petitioner

1. The petitioner is plaintiff and respondents 1 to 17 are defendants in the suit. The suit is filed for the relief of mandatory injunction to cancel the patta issued and for other reliefs. Furthermore, with regard to 1 to 6 items of this suit, the plaintiff herein has also filed another suit in OS.No. 235/2013 for the relief of declaring the plaintiff's title to the item No. 1 to 6 of the suit property, permanent injunction restraining the defendants from interfering with the peaceful possession of the item 1 , 2 and 4 of the suit property, recovery of possession for item 3,5,6 and for other reliefs. There has been an order of joint trial to try this suit along with the suit in OS.No.235/2013 vide IA.No.405/2023. The petitioner came to know that on 18.3.2010, the 5th respondent has sold the 1st item to 7th respondent and from him the 18th respondent has purchased the said property. Therefore, the 18th respondent is a necessary party to this suit and his presence is must in suit. Only if 18th respondent is impleaded in original suit, the joint trial can be conducted. His absence in the suit came to the knowledge of petitioner only when the suit was posted for trial. If 18th respondent is not added in the suit, then the petitioner will be put to irreparable loss and injury.

The case of the 7th respondent:

2. The respondent vehemently oppose the petition filed by the petitioner and put the petitioner to the strict proof of the same. In the written statement filed by the 7th respondent he has specifically stated that an extent of 0.27 ½ cents was given in partition to 5th respondent and he was in possession of same, subsequent to which, it was sold to 7th respondent who inturn has sold it to 18th respondent. The 18th respondent has his residence in France for past 10 years and petitioner also knew the same. The petitioner's intention is to set him exappte and therefore he has taken the notice only in the address of Mel-bhuvanagiri. Therefore, the respondents pray for the dismissal of this petition.

3. Now the point for consideration is whether the petitioner is entitled to get the reliefs as prayed for?

4. On the side of petitioner and respondent, no oral and documentary evidence was let in.

Points For Consideration:

5. Heard the learned counsel for petitioner. Material records perused. This is the petition filed under Order 1 Rule 10 of CPC to implead the 18th respondent as defendant in the suit. There is an order of joint trial to try this suit along with the suit in OS.NO.235/2013. It also admitted by 7th respondent of this petition that he has sold an extent of 0.27 ½ cents in 1st item of suit to proposed party. Looking on to the legal aspects of Order 1 Rule 10 of CPC, the necessary party means the party without whom they cannot be an effective adjudication in the suit.

6. Furthermore, the test to be applied while determining the right of a party to implead another, in a pending suit is as follows,

- a) If without his presence no effective and complete adjudication could be made;
- b) If his presence is necessary for a complete and effectual adjudication of the dispute though no relief is claimed against him;
- c) If there is a cause of action against him;
- d) If the relief sought in the suit or other proceedings is likely to be made binding on him;

- e) If the ultimate outcome of the proceedings is likely to affect him adversely;
- f) If his role is really that of a necessary witness but is sought to be camouflaged as a necessary party;

7. According to this court, the proposed party is a necessary party to the suit as such he is the subsequent purchaser. On perusal of records, it is seen that the proposed party is already the 7th defendant in OS.NO.235/2013. During the enquiry, the respondent counsel has argued that the notice has not been taken properly. The petitioner counsel has argued that the notice was taken in the address as mentioned in the sale deed of 18th respondent and that if 18th respondent's alleged present address is submitted before this court by 7th respondent, then the petitioners are ready to take notice on that address. The 7th respondent has not submitted any address of 18th respondent. While being so, according to this court, the service is sufficient. When there is an order of joint trial, for the complete adjudication in both the suits, this court is inclined to allow this petition so as to avoid multiplicity of proceedings and without him there cannot be effective adjudication in suit.

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

Dictated to the steno-typist, transcribed by her and typed in computer, corrected and pronounced by me in the open court this the 6th day of April 2023.

(Sd/- S.Suganiya Sri)
Additional District Munsif,
Chidambaram.

List of witnesses and documents on the side of the petitioners:

NIL

List of witnesses and documents on the side of the respondents:

NIL

(Sd/- S.Suganiya Sri)
Additional District Munsif,
Chidambaram.