

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
WEDNESDAY, THE 10TH DAY OF JULY 2024
IA.329/2023 IN OS.NO.152/2016

S.Vasantha
2. S.Rajesh

..... Petitioners/Plaintiffs

/Vs/

1. R.Kalyani
2. R.Kannan
3. R.Vijaya
4.Rajali
5. S.Jayalakshmi
6.K.Vijayadoss
7. G.Paramasivam
8. A.Kalaiselvi
9. P.Nithya
10. K.Natarajan
11. P.Mohanraj
12. K.Vembu
13. R.Radhakrishnan
14. R.Malarrvizhi
15. R.Ramesh
16. G.Sakthivel
17. K.Natarajan
18. K.Kulanjiyappan
19.V.Annamalai
20. K.Kanagasabai
21. N.Thiyagarajan
22. G.Sethuraman
23. K.Barathidas
24. M.Abdul Rahman
25. K.Selvam

....Respondents/ Defendants

....Respondents/ proposed
11 to 25 Defendants

Petitioner	Thiru.D.Ramamoorthy, Advocate
Respondents No. 1, 2, 12,16, 21	Thiru.R.Gnanamani, Advocate Set exparte for Non-filing of counter in petition
Respondents No. 13, 14, 15, 17, 18, 20, 22, 23	Set exparte in petition
Respondent No. 19	Thiru.N.Sethuraman, Advocate
Respondents No. 4, 6, 7, 9, 10	Set exparte in suit already. Therefore, their notice is dispensed with.
Respondents 11,24,25	Thiru.P.Gnanasekar, Advocate Set exparte for Non-filing of counter in petition
Respondents No. 3, 5, 8	Dismissed from suit
Relief Claimed	Petition filed under Order 1 Rule 10(2) & Section 151 of CPC to implead the 11 to 25 respondents as defendants in suit and thus render justice.
Final Hearing	10.06.2024

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 the 1st plaintiff and 1st petitioner herein. The 2nd petitioner/2nd plaintiff is 1st petitioner's son. The suit is filed for permanent injunction and other reliefs. The petitioner's husband is Late Srinivasan. After the death of Srinivasan on 12.08.1981, the petitioners are the legal heirs of deceased Srinivasan. The defendants 1 to 3 also plot out the property and sold a portion of the same to 3rd parties. While the defendant 1 to 3 sell the property to third party created unlawful, illegal, sham and nominal document in respect of portion of the suit property exclusive belonging to petitioners in favour of defendants 4 to 10. The petitioners came to know about the same recently. Under law, if any property sold by one person to other person in which he is not

owner of property, then the alleged sale deed will not bind on the real owner and the alleged document is a void document. Even under law the void document need not be set aside. To find out the legal truth before this court, the petitioners have filed an application for the appointment of commissioner, to inspect the suit property with the help of qualified Surveyor and find out the encroachment made by the 3rd parties through the defendants 1 to 3 by sham, fraudulent and nominal document in IA No.557/2016. The Commissioner has filed the report only now. During the inspection of the property through surveyor, the surveyor has found out that some other persons have obtained sale deed fraudulently and the entire property is only a vacant site. Previously, it is found out that the defendants 4 to 10 alone encroached the property and they have been added as party in the suit, only after filing the report of the commissioner, it has found out that some other persons also encroached the property. Hence, to avoid technicalities and multiplicity of proceedings, the said persons have to be impleaded as defendants 11 to 25. Unless they are impleaded, the petitioners alone are put to irreparable loss. Hence, this petition.

The case of the 19th respondent:

2. The respondent vehemently oppose the suit filed by the plaintiff and put the plaintiff to the strict proof of the same. When the petitioner has gone through the documents of suit, it is seen that the 19th respondent has not purchased the suit property. Therefore, the respondent prays to dismiss this petition with costs.

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 both sides Learned counsels. Material records perused. This is the suit filed for the relief of permanent injunction against the defendants and to declare the sale deeds of 4 to 10 defendants as null and void. According to the petitioners, the 2nd petitioner/2nd plaintiff is the son of 1st petitioner. The 1st petitioner's husband is Late Srinivasan and the petitioners are the legal heirs of deceased Srinivasan. The defendants 1 to 3 formed layout in suit property and sold a portion of the same to 3rd parties and created unlawful, illegal, sham and nominal document in respect of portion of the suit property exclusive belonging to petitioners in favour of defendants 4 to 10. The petitioners came to know about the same recently. The said documents are void documents. To find out the truth, the petitioners have filed an application for the appointment of commissioner, to inspect the suit property with the help of qualified Surveyor and to find out the encroachment made by the 3rd parties through the defendants 1 to 3 by sham, fraudulent and nominal document in IA No.557/2016. The Commissioner has filed the report only now. During the inspection of the property through surveyor, the surveyor has found out that some other persons have obtained sale deed fraudulently and the entire property is only a vacant site. Previously, it is found out that the defendants 4 to 10 alone encroached the property and they have been added as party in the suit, only after filing the report of the commissioner, it has found out that some other persons also encroached the property. Hence, to avoid technicalities and multiplicity of proceedings, the said persons have to be impleaded as defendants 11 to 25. Unless they are impleaded, the petitioners alone are put to irreparable loss. On the other hand, the respondent contends that when the petitioner has gone through the documents of suit, it is seen that the 19th respondent has not purchased the suit property.

6. On perusal of entire records carefully it is seen that the plaintiff intends to implead 11 to 25 respondents based on commissioner report. But, how the plaintiff implicate those respondents with that of the suit is not explained. The plaintiff has merely stated 11 to 15 respondents has encroached upon the suit

property. There is no whisper about the same in the plaint and it is surprising as to how the petitioner came to know about the respondents all of a sudden, that to when he has filed the suit on 2016 and when the suit was posted for trial, and after the commissioner report and plan was filed in the suit. The plaintiff has not even filed the sale deeds through which he alleges that the respondents came into possession of suit property. Furthermore, the petitioner alleges that he has filed the Encumbrance certificate which reflects the name of 19th respondent alone. Even that detail pertains to the year 2012 which is nearly 4 years before instituting the suit. It is the plaintiff who has filed the suit and therefore he ought to have mentioned about the documents executed with regard to suit survey number in his plaint itself. The act of the petitioner in filing this petition after a period of nearly 7 years should be viewed seriously.

7. In the view of this court, the plaintiff has clearly not whispered any of the contents of this petition in the suit filed by the plaintiff and petition itself is likely to show a new cause of action and if this petition is allowed the entire plaint nature will be changed. The plaintiff relies on the sale deed in favour of srinivasan on 12.10.1978, but it is not known as to why the plaintiff remained silent since 1978 and that too when the sale deed pertains to nearly 45 years old. According to this court, there are no merits in this petition and this petition is filed only to harass the respondents. There is no proper proof submitted by the petitioner to indulge the respondents in this suit. The only reason alleged by the petitioner is that he has filed this petition based on advocate commissioner report and plan. But, even in the advocate commissioner report, the details of 11 to 25 respondents are not found. When such is the case, the petitioner ought to have filed this petition with proper proof. But the petitioner has failed to do that exercise. The petitioner cannot base his entire case upon the commissioner report. The details of encroachers in the commissioner report have not been mentioned. While being so, how the petitioner has chosen the 11 to 25 respondents is not known. Looking at any angle, the petitioner has failed to

prove his case for this petition. Therefore, this court is of the view, that there are no merits in this petition.

In the result, this petition is dismissed. 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 10th day of July 2024.

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