

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU**

Present: Tmt.K.Kayathri, M.A.B.L.
Additional District Judge,
Chengalpattu.

Friday, the 26th day of April 2024

I.A.No.117/2015 in

O.S.No.449/2004

CNR No:TNKP01-000045-2004

V.Jayaprakash

..Petitioner/Plaintiff

-Vs.-

- 1.Venkataperumal Reddiar (Died)
- 2.V.Ravi @ P.V.Ravi (Died)
- 3.S.Vaidegi
- 4.Adhiyappa Reddiar (Died)
5. Venkataperumal Reddiar @ Narasa Reddiar
6. Visalakshi
- 7.Sethubai
- 8.Subramaniya Naicker (Died)
- 9.Radhakrishnan
10. Alameluammal
- 11.Vasanthakumari
- 12.Vijayakumari
- 13.R.Anitha
- 14.Minor.R.Visvatchan
- 15.Minor.R.Nisheanth

..Respondents/Defendants

1. Venkatalakshmiammal
2. Adhilakshmiammal
3. Ushadevi
4. J.Balasubramani
5. Kalidass
6. K.Vijayalakshmi
7. Kanniyammal
8. Revathi
9. Murali

10.Nagaraj ..Respondents.1 to 10/proposed defendants.16 to 25

This Petition coming on 3.4.2024 for final hearing before this court in the presence of Thiru. V. Jayaprakash, party in person and Thiru.V.Agoram, counsel for the Respondents.5, 10 to 12 and respondents.1,2,4 and 8 died and Thiru.P.Velmurugan, counsel for respondents 3,13 to 15 and Thiru. K.Raghu Raj, counsel for 6th respondent and respondents.7,9,17 to 19 remained exparte in the suit and upon hearing the arguments of both sides and perusing the documents and entire case records and having stood over for consideration till this day, this Court delivered the following:-

ORDER

This petition is filed under order Order 1 Rule 10(2) and Sec.151 of CPC to implead the proposed respondents. 1 to 10 as defendants. 16 to 25 in the above suit as proper and necessary parties.

2. The petition averments in brief: -

The petitioner is the plaintiff in the above suit. The above suit has been filed for partition and for other reliefs. The Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 was owned by petitioner's grandfather Thiru.Sanjeevi Reddiar and after his demise, the petitioner's father has possessed and enjoyed the same. Tmt. Venkatalakshmiammal who is the sister of 4th and 5th defendants has illegally, unlawfully and fraudulently created a Will in favour of her daughter Tmt.Adhilakshmiammal who is the wife of 5th defendant in respect of Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 which does

not bind the petitioner. The said Tmt. Venkatalakshmiammal who is the proposed 1st respondent is not the real owner of the above said Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16. Tmt. Adhilakshmiammal who is the proposed 2nd respondent has illegally, unlawfully and fraudulently sold Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 to Tmt.Ushadevi, who is the proposed 3rd respondent under a registered sale deed dt:17.7.2000 registered in doc.no.864/2000 dt:19.7.2000 which will not bind over the petitioner. The said Tmt.Ushadevi has illegally, unlawfully and fraudulently sold Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 to Thiru.Balasubramanian, who is the proposed 4th respondent under a registered sale deed dt:28.7.2005 in doc.no.1552/2005 which will not bind over the petitioner. The above said Tmt.Venkatalakshmiammal, Tmt.Adhilakshmiammal, Tmt.Ushadevi and Thiru.Balasubramanian have illegal vendors and purchasers. Hence they have to be impleaded as necessary and proper parties in the suit.

3. The averments in the Counter filed by the 5th Respondent and adopted by respondents.10 to 12 in brief:-

The petition is not maintainable in law and on facts. Tmt.Venkatalakshmiammal w/o.Athiyappa Reddiar died long back. She died in the year 1988 and the petitioner is fully aware of the fact and now seeking her to be impleaded as party to the proceedings. As per

petition allegation, Venkatalakshmiammal executed Will in favour of her daughter Athilakshmiammal dt:15.10.1988 which would itself reveal that the petitioner did not add the proper parties at the time of filing of the suit itself. The 8th defendant Subramani Naicker also died and his legalheirs were not impleaded. The petition is barred by law and the petitioner is not entitled to implead the proposed Respondents. The petition is highly malicious. There are absolutely no merit in the petition and the petition is liable to be dismissed.

4. The counsel for the respondents 3,13 to 15 has made endorsement as to 'no counter'.

5. The point for Consideration in the above petition is

1. Whether the petition is to be allowed or not?

6. Points:-

Admittedly, the suit has been filed for the relief of preliminary decree for partition and to render accounts of the income from item nos.1 to 25 of the suit properties and to direct the 4th and 5th defendants to quit and deliver the plaintiff's 1/4th share from their permissive possession of the suit properties. The suit is of the year 2004 and is pending for filing of written statement. According to petitioner/plaintiff, the Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 was owned by his grandfather Thiru.Sanjeevi Reddiar and after his demise, the petitioner's father has possessed and enjoyed the same.

7. It is the main contention of the petitioner that

Tmt. Venkatalakshmiammal who is the sister of 4th and 5th defendants had illegally, unlawfully and fraudulently created a Will in favour of her daughter Tmt.Adhilakshmiammal who is the wife of 5th defendant in respect of Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 which did not bind the petitioner. The said Tmt. Venkatalakshmiammal who is the proposed 1st respondent is not the real owner of the above said land.

The petitioner further contended that Tmt. Adhilakshmiammal who is the proposed 2nd respondent has illegally, unlawfully and fraudulently sold Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 to Tmt.Ushadevi, who is the proposed 3rd respondent under a registered sale deed dt:17.7.2000 registered as doc.no.864/2000 on 19.7.2000 which will not bind over the petitioner. Tmt.Ushadevi has illegally, unlawfully and fraudulently sold Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16 to Thiru. Balasubramanian, who is the proposed 4th respondent under a registered sale deed dt:28.7.2005 in doc.no.1552/2005 which will not bind over the petitioner. Hence, the above said parties are just and necessary to the present suit.

8. Per contra, the Respondents.5, 10 to 12 contended that the proposed 16th defendant Tmt.Venkatalakshmiammal w/o.Athiyappa Reddiar died in the year 1988 and the petitioner is fully aware of the same. Further, the 8th defendant Subramani Naicker also died and his legalheirs were not impleaded. The petition is barred by law and the petitioner is

not entitled to implead the proposed Respondent.

9. In these rival contentions, considering the entire facts and circumstances of the case and considering the nature of dispute involved in the suit, as contended by the petitioner, it is true that it is a petition only for impleading the necessary parties to the suit. Hence, a prima facie material is sufficient to implead a necessary parties for final adjudication. But, the main contention raised by the respondents.5,10 to 12 is that the proposed 16th defendant died long back and the legalheirs of deceased 8th defendant were not impleaded. If that be the case, this court is of the view that the deceased Tmt.Vemkatalakshmiammal cannot be impleaded. But, the main dispute raised by the petitioner is entirely revolves around the alleged Will executed in favour of Tmt.Adhilakshmiammal who is the wife of 5th defendant in respect of Nanja old S.No.147/A2, Nanja New S.No.237/3, Erikil-1.16. In such a case and circumstances, this court is of the considered view that the proposed respondents.1 to 10/proposed defendants.16 to 25 are just and necessary parties to the present suit for complete and final adjudication. Moreover, by impleading the defendants 16 to 25 as necessary parties to the present suit, multiplicity of the proceedings in respect of the suit properties would be rightly avoided. Hence, this court is inclined to allow the petition.

Finally, the petition is allowed. No costs.

Dictated to the Shorthand writer and computerized by her and corrected and pronounced by me in open Court, this the **26th day of April 2024.**

sd/-K.Kayathri

Additional District & Sessions Judge
Chengalpattu.

Exhibits and Witnesses on either side: Nil.

sd/-K.Kayathri

Additional District & Sessions Judge
Chengalpattu.

Draft/Fair Order
I. A. No.117/2015 in
O.S.No.449/2004
Dated : 26.4.2024
ADJ/CPT
