

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
CHENGALPATTU DISTRICT.**

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A., M.L.,**
Principal District Judge, Chengalpattu.

Thursday the 3rd day of October 2024

I.A.No.1062/2018

and

I.A.No.1/2019

in

O.S.No.21/2018

I.A.No.1062/2018 :

1. A.Thanigaivel
2. A.Raman
3. A.Somasundaram
4. A.Guberakrishnan
5. Rubalya Devi

. . . Petitioners / Plaintiffs.

/Vs/

1. A.S.Rajan @ A.Soundararajan
2. D.Anandavalli
3. Thulasi Bai @ Thulasi Mala
4. Sathiya
5. Sivakumar
6. Subasini
7. A.R.Sowmya Meena

. . . Respondents / Defendants 1 to 6.

**. . . Respondent / Proposed 7th
defendant.**

I.A.No.1/2019 :

1. A.Thanigaivel
2. A.Raman
3. A.Somasundaram

4. A.Guberakrishnan

5. Rubalya Devi

. . . Petitioners / Plaintiffs.

/Vs/

1. A.S.Rajan @ A.Soundararajan

2. D.Anandavalli

3. Thulasi Bai @ Thulasi Mala

4. Sathiya

5. Sivakumar

6. Subasini

. . . Respondents / Defendants 1 to 6.

7. Pradhoshini

**. . . Respondent / Proposed 8th
defendant.**

These two petitions came up before me in this court for final hearing on 27.9.2024, in the presence of Thiru.G.S.Suresh Babu, Advocate for the petitioners in both the applications, and Tvl.T.Paranthaman, D.V.Subba Rao and K.R.Thiruvengadam, Advocates for the 1st and 2nd respondents, upon hearing the arguments of petitioners' counsel, perusing the written arguments of respondents and entire records, and having stood over for consideration till this day, this court delivers the following,

COMMON ORDER

I.A.No.1062/2018 :

This petition is filed by the petitioners under Order 1 Rule 10(2) r/w. Section 151 CPC, to implead the 7th respondent as 7th defendant in the suit.

I.A.No.1/2019 :

This petition is filed by the petitioners under Order 1 Rule 10(2) r/w. Section 151 CPC, to implead the 7th respondent as 8th defendant in the suit.

2. The brief case of the petitioner in IA 1062/2018 :

The petitioners have filed the above suit against the respondents / defendants for a preliminary decree for partition. The suit schedule 'H' property was purchased by the members of the Hindu Undivided Family from the joint family funds in the name of the 2nd respondent / 2nd defendant under sale deed dated 25.1.1991. Subsequently the said suit schedule 'H' property was settled by the 2nd respondent / 2nd defendant to and in favour of the proposed 7th defendant by namely A.R.Sowmya Meena, wife of S.K.Deepak Azhagar under settlement deed dated 30.8.2017. In view of the aforesaid settlement by the 2nd respondent / 2nd defendant, it has become necessary for the petitioners to file this application to implead the proposed respondent as party 7th defendant in the suit in order to effectively adjudicate the above suit. Hence, the petition.

3. The brief averments of counter filed by the respondents 1 and 2, in IA 1062/2018 :

The suit schedule 'H' property was purchased by the members of the Hindu Undivided Family from the joint family funds in the name of the 2nd defendant under the sale deed dated 25.1.1991. It is the individual self

acquired property for the 2nd defendant and therefore the petitioners / plaintiffs cannot seek any relief in respect of the said property, especially without seeking a declaration of title in this regard. Admittedly the 2nd respondent, who was the absolute owner of the said property bearing New Door No.82, Old NO.56-A, Medavakkam Main Road, Kilakattalai, Chennai - 117, had settled the same upon their daughter A.R.Sowmya Meena by a settlement deed dated 30.8.2017 in document No.6868/2017 much before the filing of the above suit. Therefore, even before the filing of the above suit A.R.Sowmya Meena had become the absolute owner of the said property and therefore the petitioners / plaintiffs cannot lay a claim over the said property under the guise of filing a suit for partition, without seeking declaration of title in respect of the said property. Hence, prayed for dismissal of petition.

4. The brief case of the petitioners in I.A.No.1/2019 :

After filing the suit, now only the petitioners came to know that the 1st respondent / 1st defendant A.S.Rajan @ A.Soundararajan had settled the suit 'B' schedule mentioned property to his daughter A.R.Sowmya Meena and A.R.Pradhoshini under the registered settlement deed dated 18.8.2017 bearing document No.6794/2017 before the Sub Registrar Office at Pallavaram. The settlement deed executed by the 1st defendant in favour of A.R.Sowmya Meena and A.R.Pradhoshini who are proposed 7th and 8th defendants in the above suit is not valid in law and it is being an abvinto. Hence, the above said A.R.Sowmya Meena and A.R.Pradhoshini are

impleaded in the above suit as necessary parties. Already the petitioner filed a necessary implead application to implead A.R.Sowmiya Meena as proposed 7th defendant. Now the petitioner filed this application to implead the 7th respondent A.R.Pradhoshini as 8th defendant in the above suit. Hence, the petition.

5. The brief averments of counter filed by the respondents 1 and 2, in I.A.No.1/2019 :

The petitioner / plaintiffs have filed the above suit seeking partition of the suit properties and demanding future profits and the respondents have also filed their detailed written statement on 3.8.2018 questioning the very maintainability of the suit and also raising various other defences. The suit schedule 'B' property was purchased by the 1st respondent in the name of his father from and out of his own funds. In fact, in view of the said fact, the 1st respondent's father had executed a registered Will dated 23.10.1996 in document No.162/1996 at SRO, Pallavaram, bequeathing the said property upon the 1st respondent. Admitting the same, the 2nd plaintiff and his wife Mohana had also stood as attesting witnesses in the said Will. In terms of the said Will, upon the death of 1st respondent's father, the 1st respondent become absolute owner of the schdule 'B' property and and he had also obtained patta in his name. Subsequently, the 1st respondent had executed a settlement deed dated 13.9.2012 in document No.5450/2012 at SRO, Pallavaram settling the said property upon his daughter A.R.Sowmya

Meena. Thereafter, his daughter settled the very same property upon the 1st respondent under the settlement deed dated 24.9.2012 in document No.5635/2012. the execution of these documents are well within the knowledge of the petitioners / plaintiffs as the relationship between them was cordial and there were no disputes by such time. After change of circumstances in the family, the 1st respondent executed the settlement deed dated 18.8.2017 in document No.6794/2017 settling the schedule 'B' property upon his daughter A.R.Pradhoshini. The petitioners / plaintiffs are making all attempts to somehow or other knock away the properties which are absolutely belonged to respondents 1 and 2. Hence, prayed for dismissal of petition.

6. The point for consideration is whether both the applications are liable to be allowed.

7. Point :

The petition in IA 1062/2018 is filed by the petitioners / plaintiffs to implead one Sowmiya Meena as 7th defendant in the suit. The other petition in IA 1/2019 is filed by the petitioners / plaintiffs to implead one Pradhoshini as 8th defendant in the suit.

8. This petition is filed to implead 7th and 8th defendants. The petitioner is the plaintiff in the suit. The suit is filed for partition. After filing written statement, the 1st respondent / defendant settled the property in favour of Sowmya Meena and Pradhoshini under a registered settlement

deed. The said settlement deed is marked as Ex.P1 in IA 1062/2018. Further the legal notice issued by the petitioners / plaintiffs' counsel to the 1st and 2nd respondents is marked as Ex.P2 and the postal acknowledgement card for having received the same is marked as Ex.P3. Therefore the petitioner / plaintiff wants to implead both of them as 7th and 8th defendants in the suit. The alleged settlement deed dated 18.8.2017 is admitted in the counter. Therefore, 7th and 8th defendants have to be impleaded as necessary parties to have complete adjudication. There will not be any hardship in impleading the proposed parties to the respondent. Therefore these applications are allowed.

9. **I.A.No.1062/2018 :**

As the result, petition allowed. No costs.

10. **I.A.No.1/2019 :**

As the result, petition allowed. No costs.

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 3rd day of October 2024.

Principal District Judge,
Chengalpattu.

Both side witnesses :

Nil.

Petitioners' side exhibits :

- Ex.P1 18.8.2017 Certified copy of settlement deed executed by
 A.S.Rajan @ A.Soundararajan in favour of
 Sowmya Meena and Pradhoshini.
- Ex.P2 23.07.2017 Office copy of legal notice issued by the
 petitioners in favour of respondents 1 and 2.
- Ex.P3 --- Acknowledgment cards.

Respondents' side exhibits :

Nil.

Principal District Judge,
Chengalpattu.