

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARMAPURI

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Monday, this the 2nd day of June 2025

I.A.No.7/2025

in

O.S.No.5/2012

Govindharaj

....Petitioner/Proposed party

/versus/

1).Govindhammal

2).Nagavalli

....Respondents/plaintiffs

/versus/

1).Kathiriappan.

2).Lakshmiammal (died).

3).Sabithadevi.

4).Vaijeyanthimala.

5).Nageshwari.

6).Mangammal (died).

7).Srinivasan..

8).Padmavathi.

9).Balaji.

10).Sridhar.

...Respondents/defendants

This petition is coming on 30.4.2025 for final hearing before me in presence of Thiru.A.Nandakumar, Advocate for petitioner and Thiru.K.M.R.Venkatachalapathi, Advocate for second respondent, upon hearing both side arguments, on perusal of the entire case records and having stood over till this day, this court pronounces the following:

ORDER

This petition has been filed under Order-1, Rule-10 CPC to implead the proposed

parties.

2. The averments in the petition in brief is as follows:

i) The plaintiffs have filed this suit for partition. Item no.56, 57, 58 of the suit properties were purchased by Duraisamy, Sakthivel from defendants 3 to 5 by way of registered Sale deed 1.8.2012. The petitioner purchased the above properties by way of registered Sale deed dated 25.10.2017 from Duraisamy, Sakthivel and in possession and enjoyment of it. He transferred the above properties in the name of Sri Vidhya Mandir Educational trust by way of document 1982/2017 dated 13.11.2017 and he is running Sri Mookambigai Arts and Science college for women in the properties as President. The petitioner is a bona-fide purchaser, he purchased properties after verifying the encumbrance and obtained legal opinion, he was not aware of the pendency of the suit. Now only he came to know about the pendency of the suit.

ii) The plaintiffs have executed Release deed dated 29.7.2012, the plaintiff have also executed a document dated 31.3.2005 admitting that the partition was effected. Item no.19, 30, 39 of the suit properties are in the name of second respondent revenue records also stands in second defendant's name, these properties are also in the possession of second defendant. The plaintiffs have suppressed all these facts and are conducting the suit based upon the false allegation. Hence for proper adjudication of the case, the petitioner has to be impleaded in this case.

3.The averments in the counter filed by second respondent in brief is as follows:

The petitioner who alleges to have purchased properties during the pendency of the suit is a lis pendens purchaser and his Sale deed is not a valid document. The first defendant filed I.A.No.96/2012 for impleading the petitioner's vendors, Duraisamy, Sakthivel and Asokan, Thamaraiselvi. The said petition was dismissed on merits by this Court. The first defendant preferred CRP(PD)No.1594/2015 which also dismissed on 17.12.2020 on merits. No appeal was preferred. The vendors of the proposed parties have not filed any petition. Suppressing all these facts, without obeying the orders passed in the CRP(PD)No.1594/2015, when the case is posted for PW.1 cross examination, upon the instigation of first defendant, the petitioner has filed this petition. The petitioner is very well aware of the proceedings and filed this petition colluding with first defendant. There is no merits in the petition and filed only to drag on the proceedings. Hence the petition is liable to be dismissed.

4. The point for consideration:

Whether the petition is to be allowed or not?

5. Heard both side. No oral evidence have been adduced on either side.

6. Point:

6.1) The petitioner alleges that he has purchased item no.56,57,58 of the suit properties by way of sale deed dated 25.10.2017 and he is in possession and enjoyment of the suit properties, he was not aware of the pendency of the suit earlier, he is a bonafide purchaser, hence to protect his rights, he has to be impleaded in this suit.

6.2) The second respondent alone filed counter alleging that the petition is a lis

pendens purchaser, this suit has been filed with intention to drag on the proceeding.

6.3) This is a suit for partition filed in the year 2012 and the case is in the stage of PW.1 cross examination. Admittedly I.A.No.96/2012 was filed by first defendant in the suit to implead Asokan, Thamarai selvan, Durai samy, Sakthivel, purchasers of item 56, 57, 58, 59 of the suit properties from defendants 3 to 5 by way of Sale deed dated 1.8.2012. The said petition has been dismissed on merits by this Court and CRP(PD)No.1594/2015 preferred by first defendant before Hon'ble Madras High Court was dismissed holding that plaintiffs or purchasers have liberty to file impleading petition. No appeal has been preferred against the order of the Hon'ble Madras High Court . The vendors of the petitioner have not filed any petition to implead them in the suit. The petitioner alleges that he has purchased the above properties by way of Sale deed dated 25.10.2017. The Hon'ble Madras High Court in the above CRP(PD)No.1594/2015 has observed that it is open to either the plaintiff or the purchasers to file impleading petition.

6.4) Admittedly the petitioner although is a pendent lite purchaser, as this is a suit for partition, in the interest of justice, to provide the petitioner an opportunity to prove case, to prevent multiplicity of proceedings and for proper adjudication of the case, this court concludes that petition has to be allowed. Hence point for consideration is answered accordingly.

In the result, petition is allowed. Both parties are directed to bear their own costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 2nd day of June 2025.

Additional District Judge,
Dharmapuri.

Petitioner Side witness, Exhibits: Nil
Respondents Side witness, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order
I.A.No.7/2025 in
O.S.No.5/2012
Dated:2.6.2025.