IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, DHARMAPURI.

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

Friday, the 18th day of October 2024

I.A.No.9/2024
in
O.S.No.158/2022

1. R.B.Karthikeyan
2. K.Sudha
3. Minor K. Santhoshini
4. Minor K. Monish

Minor petitioners 3 and 4 represented by
Guardian mother second plaintiff. ... Respondents/plaintiffs

/versus/

1. P. Sathiyamoorthi
2. Nithya
3. Sub Registrar, Harur. ... Respondents/defendants

/versus/

1. Secretary, S.775 Primary Agricultural Society, Ramiyanahalli.
2. Joint Director, Primary Agricultural Societies, Dharmapuri. ... proposed parties

This petition is coming on 3.10.2024 for final hearing before me in the presence of Mr.T.R.Murugesan, Advocate for petitioners and Thiru.C.Gandhi, Advocate for respondent/2nd defendant and C.Citrarasan, Advocate for proposed parties and respondents 1 and 3 called absent and set exparte and upon hearing both side arguments, and on perusal of the entire case records and having stood over till

this day, this court pronounced the following:

ORDER

This is a petition filed under Order-1, Rule-10 and section 151 of CPC to implead the proposed parties in this suit.

2. **The case of the petitioner in brief is as follows:**

The petitioner alleges that before executing Sale deed dated 7.8.2015 in favour of first defendant, the plaintiffs have executed a registered Mortgage deed for Rs.7,45,000/- on 23.12.2011 in favour of proposed parties. As the sale deed for the suit properties were executed nominally in the name of the first defendant for security purpose, the petitioners did not cancel the mortgage deed. The first respondent has executed the Sale deed dated 24.2.2022 in favour of second defendant. Before executing the above sale deed, the first defendant has discharged the loan and canceled the mortgage deed. The proposed parties have acted in favour of first defendant and has not informed to the petitioners about the cancellation of the mortgage deed. Hence the proposed parties have to be impleaded in this suit only then the petitioners will be able to prove their case. Hence the proposed parties have to be impleaded in this suit.

3. **The averments in the counter filed by 2nd respondent in brief is as follows:**

The respondent resisted the petition by contending that the second respondent

repaid Rs.17,83,775/- to the proposed parties and obtained discharge receipt dated 24.2.2022 and sale deed was executed in the name of the second defendant on the same day. The possession of the suit properties is with the second defendant alone. The second defendant has stated about this in his written statement itself. However the petitioners have not taken any action immediately and filed this petition only to drag on the proceedings. Already the petitioner filed I.A.No.8/2023 which has been dismissed on merits on 10.11.2023. This petition has been filed when the case is posted for trial and only to drag on the proceedings without any merits. Hence the petition has to be dismissed.

4. **The point for consideration:**

Whether the petition is liable to be allowed or not?

5. No oral or documentary evidence adduced on both side. Heard both side arguments.

6. **Point:**

6.1) The petitioners alleges that the proposed parties have canceled the mortgage deed executed by them without their knowledge and without giving any intimation to them. Hence the proposed parties have to be impleaded in this suit.

6.2) The second respondent resisted the suit by contending that he has paid the mortgage loan amount of petitioners and obtained registered discharge receipt dated 24.2.2022, on the same day sale deed was executed in his favour by first respondent

in respect of the suit properties and he is in possession, enjoyment of the suit properties.

6.3) The proposed parties have endorsed that there is no objection for allowing the petition.

6.4) This is a suit for Cancellation of Sale deed dated 7.8.2015 and directing the first defendant to execute sale deed in respect of the suit properties in favour of plaintiffs in accordance with the Reconveyance deed, for declaration of Sale deed dated 24.2.2022 as null and void and for permanent injunction. The case is in the stage of trial. Admittedly first respondent has executed sale deed in favour of second respondent. The proposed parties are not parties to the reconveyance deed. This court is of the view as the suit is for reconveyance, no purpose would be served by impleading the proposed party. The plaintiff can very well examine the proposed parties to prove the case and there is no necessity for impleading them. The proposed parties upon receipt of loan amount have canceled the mortgage deed executed by petitioners and issued Discharge receipt dated 24.2.2022 alone. In this case, the impleading of proposed parties will not in any way serve any purpose as they are neither necessary parties nor proper parties in this suit. Their presence is not in any way necessary for adjudication of the issues involved in this case. Hence there is no merits in the contention of the petitioners that proposed parties have to be impleaded in this suit. This court is of view this petition has been filed only to drag on the

proceedings without any merits. Hence this petition is liable to be dismissed. The point for consideration is answered against petitioners.

In the result, petition is dismissed. No costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 18th day of October 2024.

Additional District Judge,
Dharmapuri.

Petitioners Side Evidence, Exhibits: Nil

Respondents Side Evidence, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order

I.A.No.9/2024 in

O.S.No.158/2022

Dated:18.10.2024.