

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

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

Saturday, this the 10th day of August 2024

I.A.No.6/2023
in
O.S.No.77/2020

Ganesan

...Petitioner/plaintiff

/versus/

1. Rajamani
2. Ganthan
3. Vijay Anand
4. Karthikeyan
5. The Village Administrative Officer, Karimangalam.
6. The Tahsildar, Karimangalam.
7. The Revenue Divisional Officer, Dharmapuri.
8. The District Collector, Dharmapuri.
9. The Sub Registrar, Harur.

...Respondents/defendants

/versus/

Mahendran

... Proposed party

This petition is coming on 6.8.2024 for final hearing before me in the presence of Thiru.G.Radhakrishnan, Advocate for petitioner/plaintiff and Thiru.P.Subramani, Advocate for Proposed party and respondents/defendants 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 petition has been filed under Order-1, Rule-10 and section 151 of CPC to implead the proposed party in this suit.

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

The petitioner/plaintiff filed the suit for declaration and injunction. The case was posted for special list on 1.3.2022. As the petitioner accompanied his son who is a doctor at Pandicherry, he was unable to appear in the court. Hence the case was dismissed for default and the same was restored on 16.3.2022. When petition to set aside the dismissed for default order was pending, defendants 1, 3, 4 and proposed party without any right have entered into Partition deed dated 5.4.2022. When the petitioner demanded to cancel the forged Partition deed, they refused. Hence the proposed party has to be added in this suit for proper adjudication of the case and to prevent multiplicity of proceedings and to cancel the forged document. Hence the petition has to be allowed.

3. The counter filed by the proposed party in brief is as follows:

The proposed party resisted the petition by contending that the suit was dismissed for default. The defendants and proposed party have entered into Partition deed dated 5.4.2022 and changed revenue records in their names and properties are in their possession. The plaintiff is not entitled to seek cancellation of the Partition deed. 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.

6. **Point:**

a) The petitioner alleges that when the above suit was dismissed for default and petition to restore the suit was pending, the defendants and proposed parties entered into Partition deed dated 5.4.2022 without any right. Hence the proposed parties have to be impleaded in this case and the petition has to be allowed.

b) The proposed party resisted the petition by contending that there is no necessity for impleading him in this case and the petition has to be dismissed.

c) The respondents have chosen to remain ex parte in this suit.

d) This is the suit for declaration of title and for permanent injunction. The proposed party admits execution of Partition deed dated 5.4.2022. As this deed has been entered after suit, this court is of view that presence of proposed party is necessary for deciding this case. In his absence, there cannot be proper adjudication of case, as he is a proper and necessary party to this suit as document in respect of portion of suit property stands in his name. Hence for proper adjudication of the case and to prevent multiplicity of proceedings, this court is of view that proposed parties has to be impleaded in this suit. Hence this petition has to be allowed and point for consideration is answered in favour of petitioner.

In the result, the petition is allowed. No costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in
Open Court on this the 10th day of August 2024.

Additional District Judge,
Dharmapuri.

Petitioner Side Evidence, Exhibits: Nil

Respondents Side Evidence, Exhibits : Nil

Additional District Judge,
Dharmapuri.

Fair Order

I.A.No.6/2023 in

O.S.No.77/2020

Dated:10.8.2024.