

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI
KRISHNAGIRI DISTRICT**

**Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.
District Munsif, Uthangarai**

On this Wednesday, the 31st day of January 2024

I.A.No. 01 of 2023 in O.S.No. 30 of 2023

TNKI13-000040-2023

Ramakkal ...Petitioner /Plaintiff
/versus/
1. Jaya ...Respondent / Defendant
2. Tahsildar, Uthangarai
3. District R Krishnagiri
4. District Collector, Krishnagiri ...Respondents / Proposed Parties

This interlocutory application came up before this Court on 21.11.2023 for final hearing in the presence of advocate Thiru. S. Sasi Kumar, the learned counsel for the petitioner and advocate Thiru. S. Moorthi, the learned counsel for the 1st respondent and 2nd to 4th respondents set *ex parte* for non-appearance and upon hearing both sides and on perusal of records and having stood over for consideration till date, this Court delivers the following:

ORDER

The application has been filed under Order I Rule 10(2) of the Code of Civil Procedure, 1908 for the implead the proposed parties as defendants 2 to 4 in the suit.

The averments of the petitioner in brief:

1. The petitioner herein is the plaintiff in the suit instituted against the 1st respondent, and the 1st respondent is the daughter of the petitioner's sister namely Theerthagiri, and avers that the 2nd to 4th respondents are the proposed parties. The petitioner avers that the petitioner's husband has been bedridden for the past 3 years due to renal ailment, and avers the petitioner has been in exclusive possession and

enjoyment of the properties by way of Doc.No. 2517/2011, 2523/2011, 2524/2011, 6734/2022, and avers that the petitioner intended to gift few properties to the petitioner's daughters namely Kanchana, Kavitha, Masilamani, Kuppammal. The petitioner avers that due to the illness of the petitioner's husband, illiteracy of the petitioner, and the petitioner's daughters residing in Coimbatore with their husbands, there was no one to aid the petitioner in registration. The petitioner avers that the 1st respondent was residing near the petitioner's house, and offered to help the petitioner with the aid of a registered document writer, and obtained all the documents related to the suit properties. The petitioner avers that the 1st respondent, abusing the ignorance of the petitioner and by using the documents with Doc.No. 6793/2022, 6794/2022, 6795/2022 and 6799/2022, fabricated the deed as if the petitioner is selling the suit properties to the 1st respondent for Rs. 30,700/-, and on the pretext of executing gift deed for the petitioner's daughters, the petitioner executed the sale deed dated 24.09.2022 registered as Doc.No, 6877/2022. The petitioner avers that the petitioner received no consideration for the same, and the 1st respondent has no possession or connection with the suit properties, and the sale deed is false and fabricated, and no revenue records were mutated on basis of the said deeds. The petitioner avers that the petitioner was apprised of the above facts only recently, and she complained to the police station with complaint dated 01.04.2023 and also issued legal notice dated 01.04.2023 calling upon the 1st respondent to cancel the sale deed 24.09.2022 with Doc.No. 6877/2022, and the notice was returned. The petitioner avers that the 1st respondent brought third parties to the suit properties for selling, and the petitioner informed the legal actions undertaken, and the 1st respondent threatened to dispossess the petitioner from the suit properties. The petitioner avers that the 1st respondent is attempting to sell the suit properties to third parties, and if any alienation is undertaken, the petitioner would be put to loss and prejudice. Hence, the petitioner presented objection petition dated 02.05.2023 to the 2nd respondent, and the 2nd respondent issued memorandum dated 03.05.2023 stating that objection cannot be

refused without an order of a competent civil court, and the 3rd respondent is the superior of the 2nd respondent, and the 4th respondent is the supervising authority. Hence, the petitioner avers that the 2nd to 4th respondents are necessary parties and reliefs are to be sought against them. Hence, the petitioner seeks for allowing this application and implead the 2nd to 4th respondents as the defendants to the suit.

The averments of the 1st respondent in brief:

2. The respondent denies the averments of the petitioner in toto as false, and aver that knowing that the petitioner would not succeed the suit, the petitioner has filed this application to protract and prolong the suit proceedings. The respondent avers that the petitioner has sold the suit properties by the sale deed dated 24.09.2022 with Doc.No. 6877/2022 along with by the sale deeds with Doc.No. 2517/2011, 2523/2011, 2524/2011, 6734/2022 for valuable consideration of Rs. 30,700/-, and the 1st respondent has been in exclusive possession and enjoyment of the suit properties since then. The respondent avers that the petitioner has filed this application with false averments and the application is liable to be dismissed, and seeks for dismissal of the applicaton.

Non-appearance of the 2nd to 4th respondents:

3. The notices to the 2nd to 4th respondents were duly served, and they were called absent with no representation and were set *ex parte* on 11.08.2023.

Point for consideration:

4. Whether this application is liable to be allowed?

Evidence:

5. Neither of the parties to this application has adduced any oral evidence but the petitioner marked Exhibits P1 to P3.

Discussion:

6. This Court, having considered the arguments advanced on both sides and thoroughly examined the pertinent case records, proceeds to delineate its findings by the following discussion. The suit has been instituted for declaration of sale dated 24.09.2022 registered as Doc.No. 6877/2022 as null and void, and for perpetual injunction restraining the 1st respondent from dispossessing the petitioner from the suit property otherwise under due process of law, and for perpetual injunction restraining the 1st respondent from encumbering the suit property. This application has been filed by the petitioner / plaintiff for impleading the Sub-Registrar, Uthangarai, District Registrar, Krishnagiri and the District Collector, Krishnagiri as parties to the suit. The reasons stated by the petitioner are that the 1st respondent is attempting to sell the suit property and encumber the same and that the petitioner petitioned to the 2nd respondent to refrain from registering any document by the 1st respondent with respect to the suit property and that the 2nd respondent refused to do so unless an order of injunction is obtained in this regard. The petitioner has also marked Exhibits P1 to P3 to support her averments. Exhibit P1 is the copy of objection petition dated 02.05.2023 given by the petitioner to the 2nd respondent with respect to the suit properties. A perusal of Exhibit P1 would show that the petitioner has intimated the pendency of this suit in O.S.No. 30 of 2023 and requested to refrain from registering any document with regard to the suit properties. Exhibit P2 is the receipt of the objection memorandum and Exhibit P3 is the order passed by the Sub-Register, Uthangarai on the objection petition filed by the petitioner. The Sub-Register, Uthangarai, in her order, has observed that documents shall be registered as per the statute and rules of registration and directed the petitioner to seek remedy before a competent civil court. Hence, the petitioner has filed this application to implead the respondents 2 to 4 as parties to the suit. The respondent has resisted this application that the entire suit is based on false and frivolous averments and that the

petitioner has no cause of action and no merits in the case. Except for these perfunctory objections, no other objections as to impleading the respondents 2 to 4 have been raised by the respondents.

7. The petitioner, being the *dominus litus*, has the right to implead parties and seek appropriate reliefs for effective and conclusive determination of the disputes between the parties. Further, the reasons assigned by the petitioner for impleading respondents 2 to 4 is to prevent further encumbrance on the suit property, and thereby, to prevent multiplicity of proceedings. Further, the respondents 2 to 4 have also not appeared to contest this application. Hence, this Court is of the considered view that neither the 1st respondent nor the respondents 2 to 4 shall be prejudiced if the latter are impleaded as parties to the suit. Hence, this Court is inclined to allow this application without any cost.

Result:

8. ***As a result, this application is allowed. No cost.***

This order was dictated to the steno-typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 31st day of January 2024.

District Munsif
Uthangarai

Annexure

Petitioner side evidence

Petitioner side Witnesses: Nil

Petitioner side Exhibits:

Exhibit	Date	Document	Remarks
P1	02.05.2023	Objection Petition	Office copy

P2	---	Receipt	Original
P3	03.05.2023	Memorandum of the 2 nd respondent	Original

Respondent side evidence

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

Court Documents: Nil

District Munsif
Uthangarai