

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF
PADMANABHAPURAM.

Present: Thiru.A.Maruthupandi, B.Com., B.L.,
Additional District Munsif (Full Additional Charge).

Friday, the 23rd day of June 2023

I.A. No.08 of 2022

in

O.S. No. 90 of 2021

1. Snehapoo

2. Lazer

3. Justin Raj

4. Sunder Singh

5. Asok Darwin

(Plaintiffs 2 to 4 represented by their power holder of 5th plaintiff)

..Petitioners/ Plaintiffs)

Vs.

1.John Peter

2. John Bosco

3. Mary Roselet

..Respondents/Proposed
Addl.3rd Defendants

This petition is coming before me for final hearing in the presence of Mr.S.Rajasekhar, learned counsel for the petitioners/plaintiffs and Mr.C.M.Kingslin Jebakumar, learned counsel for the 1st and 2nd respondents/1st and 2nd defendants and Mrs.Rosely, learned counsel for the 3rd respondent/Proposed Addl.3rd defendant. Upon hearing the counsels and on perusal of the records stood over for consideration till this day, this court passed the following :-

ORDER

This petition is filed under Order 1 Rule 10 (2) and Section 151 of Civil procedure Code to implead the 3rd Respondent/proposed additional 3rd defendant.

2. THE AVERMENTS IN THE PETITION IN BRIEF :-

The suit is filed for permanent injunction. In the said case, the 2nd defendant has written a deed of sale in the name of his wife as per document no.502/2022 on 11.02.2022. When the case is pending, therefore the necessary party in this case should be added as an 3rd respondent/additional 3rd defendant. Hence, this petition.

3. THE AVERMENTS IN THE COUNTER FILED BY THE 1st AND 2nd RESPONDENTS / 1st AND 2nd DEFENDANTS IN BRIEF:

i) The petitioners/Plaintiffs stated in the affidavit that the 2nd respondent/2nd defendant executed the plaint schedule property infavour of the 2nd respondent/2nd defendant's wife. Actually, Mary Roselet Bai is not the wife of 2nd respondent/2nd defendant and she is the wife of 1st respondent/1st defendant namely John peter.

Hence, this petition is liable to be dismissed.

4. THE AVERMENTS IN THE COUNTER FILED BY THE 3rd RESPONDENT/PROPOSED ADDITIONAL 3rd DEFENDANT IN BRIEF:

The 3rd respondent/ proposed Addl.3rd defendant is the owner and in possession and enjoyment of 6 cents of land with a thatched house therein in Survey

No.113/3C. The got right over the 6 cents of land and a thatched house therein on the basis of the sale deed executed by John Bosco as per document No.502/2022. She got title and possession over the property and basing upon that the 3rd respondent/proposed Addl.3rd defendant became the owner of the property and is in enjoyment of the same as absolute owner. Hence, this petition is liable to be dismissed.

5. POINTS FOR DETERMINATION:

Whether the petitioners/plaintiffs are entitled to the relief as prayed for or not?

6. DISCUSSION AND ANALYSIS:

Both side heard. Records perused carefully.

i) The learned counsel for the petitioners/plaintiffs argued that when this suit is pending the 2nd respondent/2nd defendant has executed a sale deed infavour of his wife with regard to suit schedule property. So, the wife of 2nd respondent/2nd defendant is a necessary party to the suit to dispose the case properly, hence this petition is filed.

ii) The learned counsel for the respondents/defendants argued that even though the 2nd respondent/2nd defendant has executed a property infavour of his wife there is no necessity to array her as a property to the suit, hence this petition is liable to be dismissed.

iii) On perusal of materials it is found that the both parties to the suit are admitted that the 2nd defendant has executed 6 cents in Re.survey No.113/3C of Keelmidalam village, when the suit has been pending by a way of document No.502 of 2022 infavour of his wife. So, in the said circumstances, the wife of 2nd defendant is a necessary party to the suit and hence she has to be arrayed as a party to the suit for proper and effective disposal without any controversial question and moreover to avoid multiplicity proceedings.

7. DECISION:

In the result, Petition is allowed.

Dictated to the Steno-Typist directly, typed by her in computer, corrected and pronounced by me in open court, on this 23rd day of June 2023.

Additional District Munsif,
Padmanabhapuram.

ADMC, Padmanabhapuram.

I.A.No.08/2022 in O.S.No. 90/2021

Draft/Fair Order:

Dt: 23.06.2023.