

**IN THE COURT OF THE DISTRICT MUNSIF,
ERANIEL.**

Present: **Thiru. A. Maruthupandi, B.Com., B.L.,**
District Munsif, Eraniel. (F.A.C.)

Friday, the 07th day of June 2024

I.A.No.02/2022
in
O.S.No.96/2012

S.Benjamin Bennet

... Petitioner/ Plaintiff

Vs.

1. S.Davidson Rabi,
2. Vijayakumari

.... Respondents / Defendants

D.Arun David

.... Proposed party.

This petition is coming before me for final hearing in the presence of Mr.J.John Jeyakumar, learned counsel for the Petitioner / Plaintiff and Mr.F.Wilfred, learned counsel for the Respondents/Defendants and on perusal of the case records and having stood over for consideration till this day, this court delivered the following

Order.

This petition is filed under Order 1, Ruel 10(2) of the Civil Procedure Code, 1908 to pass an order for impleading the proposed party whose name and address as stated with 3rd party as an additional defendant in the original suit.

2. THE AVERMENTS IN THE PETITION IN BRIEF:-

(i) The Petitioner herein and plaintiff in the original suit as such he will acquainted with all the facts of this case. He state that in the original suit he made the

claim for declaration that he have acquired right of way over the 'B' schedule property and permanent injunction prohibiting the defendant, his men, agent and servant from causing any disturbance in using the plaint 'B' schedule property as a way to the plaint 'A' schedule property besides other reliefs.

(ii) He state that during the pendency of the suit the 1st defendant executed settlement deed, dated 30.08.2017 in favour of his son D.Arundavid by conveying 7 cents of land comprised in Re-Survey No.413/1B of Reethapuram Village, Kalkulam Taluk, Kanyakumari District and registration of the same as Document No.152/2017. The property given to him as a settlement is the portion of the plaint 'B' schedule property. So he propose to implead him as an additional 3rd defendant in the Original suit.

3. Counter not filed on the side of Respondents/Defendants:-

4. POINTS FOR DETERMINATION:-

Whether the Petitioner/ plaintiff is entitled to the relief as prayed for or not ?

5. DISCUSSION AND ANALYSIS:-

Both side not argued. Records perused carefully.

(i) The learned counsel for the petitioner argued that the suit has been filed for getting a relief of declaration and permanent injunction and other relief. He sought a relief of declaration over the suit schedule property but, when the suit is pending the first defendant executed a settlement in favour of his son D.Arun David on 30.08.2017. So that only this petition is filed for impleading the son of first defendant as a necessary party to the suit. Hence, this petition.

(ii) The learned counsel for the respondent argued that the proposed party is not a necessary party to the suit. But, this petition is filed to sale the proceedings unnecessary. Hence, this petition is liable to be dismissed.

6. On perusal of materials it is found that the petitioner/plaintiff is seeking a relief of declaration over the suit 'B' schedule property to access the suit 'A' schedule property. When this suit is pending the said 'B' schudled property was settled by the first defendant in favour of his son i.e. proposed party . So that, in the circumstances for proper and effective disposal of the case he is necessary party to this suit. Hence, this court is inclined to grant a relief as prayed for to avoid the multiplicity proceedings also.

7.DECISION:-

In the result, petition is allowed.

Dictated by me, typed by Steno-Typist in computer, corrected and pronounced by me in open court, on this the 07th day of June 2024.

Sd/- A.Maruthupandi,
District Munsif,
Eraniel, (FAC)

True copy

D.M.C. Eraniel.
I.A.No.02/2022
in
O.S.No.96/2012
Fair/Draft order
Dated 07.06.2024

