

IN THE COURT OF THE DISTRICT MUNSIF, MELUR.

Present: Thiru.S.MUTHUKRISHNA MURALIDAS, M.A.M.L.,
DISTRICT MUNSIF, MELUR

Monday, the 09th day of September 2024

I.A No. 2/2024

in

O.S. No.496/2012

K. Arumugam

... Petitioner/Plaintiff

.Vs.

1. A. Pappu @ Pappu ammal.

2. A. Annamayil.

3. A. Erulayee.

4. A. Pothumponnu.

5. A. Kannan.

... Respondents/Defendants.

K. Palanisamy

... Respondent/Proposed Party.

This petition has been coming before this court for final hearing on 08.08.2024 in the presence of Thiru. M. Jeyaraman, Advocate for the Petitioner/Plaintiff and Thiru. T. Joseph Jeyakumar, Advocate for the Respondent No.5 and Thiru. K.Periyasamy, Advocate for the Respondent/Proposed Party and Respondents No.1 to 4 having been set exparte, and upon hearing the enquiry on both side and having stood over for consideration till this date, this court delivered the following...

ORDER

1. This petition is filed under Order VI Rule 17 CPC to amend the plaint by adding K.Palanisamy as new defendant No.6 and also by inserting an additional relief of declaration of sale deed executed by the 5th defendant to an in favour of the 6th defendant is Null and Void.

2. The petitioner would contended that a petition to implead third party namely K. Palanisamy as a defendant, since the 5th defendant has executed a sale deed in favour of the 6th defendant during the pendency of the suit and the said application was dismissed by this court by it order in I.A.No.348/2018 dated 27.08.2018. Aggrieved over the same, this petitioner has filed CRP (MD) No. 2733/2018 wherein the Hon'ble High court has allowed the CRP and directed to implead the said K.Palanisamy as one of the defendant in the suit. Accordingly this petition has been filed.

3. The respondent has contended that CRP was preferred by the 5th defendant and not by this petitioner. Further this petitioner wants to add para 9 F which contains false allegation that the sale deed executed by the 5th defendant in favour of the 6th defendant is sham and nominal, without any consideration to defeat the rights of the petitioner, executed in favour of the 6th defendant. Further contended that court fee to be calculated not as per Section 25(d) TNCF & SV Act, since the petitioner seeks relief to set aside the sale deed.

4. Heard both side and perused entire records.

5. Now the point to be determined is whether this petition is to be allowed or not?

6. It is not disputed that the Hon'ble High court has ordered to implead K. Palanisamy as a party to the suit. Order copy to that effect was also received by this court. A perusal of the said order, it can be seen that

the 5th defendant has preferred CRP (MD) No. 2733/2018 and not by the petitioner. Further the petitioner seeks the relief of declaration of sale deed executed by the 5th defendant in favour of the 6th defendant is Null and Void and this petitioner is not a party to the said document. So, it is correct to value the said relief under Section 25(d) of TNCF & SV Act and nothing wrong in it. There cannot be any valid objection to implead the said K.Palanisamy. Though the petitioner wants to add a fact that the said sale deed was executed for sham and nominal without passing of any consideration, the respondents are having opportunity to deny the same by filing their written statement. Whether the sale deed executed by the 5th defendant to and in favour of the 6th defendant is sham and nominal has to be decided after full trial.

7. Therefore, there is no valid objection to this petition on the side of the respondents and thus this petition is allowed. No cost.

This order is typed by me in computer and corrected and pronounced by me in open court, this the 09th day of September 2024.

District Munsif
Melur.

List of Witnesses on the side of Petitioners : Nil

List of Documents on the side of Petitioners: Nil

List of Witnesses on the side of Respondents : Nil

List of Documents on the side of Respondents: Nil

District Munsif
Melur.

Distict Munsif Court, Melur
IA No.2/2024
in
O.S.No. 496/2012
Fair/Draft Order ,
Date: 09.09.2024

I.A.No.2/2024 in O.S.No.496/2012.