

I.A.No.3/2022
in
O.S.No.33/2018

D.D.02.07.2024.

Order Pronounced.

This petition has been filed to implead the proposed parties as defendants 3 to 5 in the suit. The suit is filed for declaration of sale deed executed by the plaintiff in favour of the defendants is valid.

2. The petitioners/defendants contended that there were encumbrance made in the suit properties by the prior title holder namely N.Subramanian, S/o.Nadesan Muthiryan in the year 1987 itself. The said fact having been known by the respondent/plaintiff. But she had burked the said fact and sold the properties to the defendants. Further the said Subramanian had settled the property to his son Selvaraj by way of gift settlement deed and the said Selvaraj encumbranced the property by way of sale deed to one Sekar and the said Sekar in turn had sold the property to one Kulothungan and therefore, according to the petitioners/defendants, these persons

are proper and necessary persons to prove the defective title of the suit properties. But without impleading them as parties if any decree is passed, they may contended that the decree is not binding upon them as they were not parties in the suit.

3. The respondent/plaintiff also did not deny the execution of gift settlement deed made by N.Subramanian to his son Selvaraj. But contended that the said settlement deed itself is not valid because that was executed before he derived the title from his mother. But however there were further transaction in respect of the property transferred by N.Subramanian to his son to other 3rd parties.

4. The proposed parties filed counter stating that they do not know transaction between the plaintiff and the defendants and the petitioners/defendants also did not seek any relief against these proposed parties and it is the plaintiff who has to choose the person against whom to seek relief. In this case the respondent/plaintiff

herself did not seek any remedy against the proposed parties and they have not made as parties to the suit and therefore, they are unnecessary parties. Further they have not denied the transaction alleged in the petition by the petitioners/defendants. Further both the respondent/plaintiff and the proposed parties contended that if at all the petitioners/defendants intend to get any relief against the proposed parties, they have to file separate suit against them and they cannot seek to implead them as parties in the present suit.

5. The suit itself is for declaration that the plaintiff has conveyed clear, valid and marketable title of the schedule property in favour of the 1st defendant in terms of sale deed, dated 23.01.2015. When the defendant alleges that there were encumbrances in respect of some of the suit property by the prior title holder and the respondent/plaintiff also did not say that the property conveyed by the prior title holder does not relate to the suit properties, it becomes utmost necessary to get the prior title holder and the persons derived title from him

to be parties to the suit. Therefore, this Court considers that though the suit is in the stage of part heard, this Court considers that the impleadment of the proposed parties will settle the issues between the parties once for all to avoid multiplicity of litigation and institution of different suits by the parties and therefore, in the interest of justice, this petition can be allowed.

6. In the result, this petition is allowed. No cost.

Principal District Judge,
Perambalur.

