

**In the Court of Subordinate court, Keeranur.
Present: Thiru. C. Rajesh, B.A., B.L.,
Subordinate Judge, Keeranur.**

**Friday, the 5th day of January 2024
2054 Thiruvalluvar Andu, Sobakiruthu varudam, Margazhi thingal 20th day**

I.A.No.1/2022 in O.S.57/2022

Vaithiyanathan, ... petitioner / Proposed 2nd defendant

.Vs.

Vadivel ... 1st Respondent / Plaintiff

Durairaj ... 2nd Respondent / Defendant

This petition came up before this Court for final hearing on 14.12.2023 in the presence of Thiru. K. Rengasamy, B.Sc., B.L., counsel for the petitioner / Proposed 2nd defendant and Thiru. P.T. Panneerselvam, M.A., B.L., counsel for the 1st Respondent / Plaintiff and Thiru. Arun Jayaraman B.A., B.L., counsel for the 2nd Respondent / Defendant and upon hearing both side argument and on perusing the records, having stood for consideration till this day, this Court hereby delivered the following

ORDER

This petition has been filed under Order 1 Rule 10 (2) of CPC to implead the petitioner as the 2nd defendant in the suit.

The gist of the petition is as follows:

1. Petitioner is the proposed 2nd defendant. The suit has been filed for the relief of declaration, recovery of possession and mandatory injunction. The suit property was purchased by the defendant on 05.02.1975 from one Sundaramammal. On 05.08.2020 the defendant has executed a settlement deed in favour of the petitioner in respect of the suit property. After the execution of the above said settlement deed the

petitioner becomes the owner of the suit property. Hence, it is necessary to implead the petitioner as the 2nd defendant in the suit.

The gist of the counter is as follows:

2. This petition is not maintainable. The proposed 2nd defendant is an Advocate. To utilize the legal knowledge of the proposed defendant they are seeking permission to implead him in the suit. The existing defendant alone necessary party to the suit. To avoid giving evidence by the defendant they wanted to implead the present petitioner as the 2nd defendant. Hence he prays to dismissal of the petition.

3. Neither oral nor documentary evidence adduced either side.

4. Now the point to be decided is whether the petition is liable to allowed or not?

5. The suit has been filed for the relief of declaration, recovery of possession and mandatory injunction. The petitioner is the 3rd party to the suit. He claims that the existing defendant had executed a settlement deed in favour of him on 05.08.2020 in respect of the suit property. Further he claims that at present he is the owner of the part of suit properties. The respondent's counsel contents that since the proposed party is an Advocate they want to implead him as a party to the suit in view of utilize his legal knowledge. On perusal of records it is found that on 05.08.2020 a settlement deed has been executed in favour of the petitioner by the defendant. So this court deems that the present petitioner is the necessary party to the suit. Further as per Order 1 Rule 10(2) of Cpc if the court feels that the proposed party is not impleaded in the suit the court will not come to a right conclusion and he must be added as a party in the suit. Hence, this court is inclined to implead the petitioner as a party to the suit.

In the result,

Accordingly this petition is allowed. No cost.

Directly dictated to the Steno-typist, and typed in Computer by her, corrected and pronounced by me open Court on this the 5th day of January 2024.

Subordinate Judge,
Keeranur.

Petitioner side Evidence and documents ... Nil

Respondents side Evidence & documents ... Nil

Subordinate Judge,
Keeranur.