

0 IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE, SALEM.

PRESENT: Thiru. R.Velaras, B.Sc., B.L., L.L.M.,

I Additional District Judge, Salem,

Monday, the 08th day of September, 2025

I.A.No.05/2024

in

O.S.No.410/2022

K.V.Rajan

.... Petitioner/Plaintiff

/ Versus /

G.Priya

.... Respondent/Defendant

And

1. Karthick

2. Dhanalakshmi

.... Respondents 2, 3 /Proposed Parties
of defendants 2 & 3

This petition is coming on 13.08.2025 before me for final hearing in the presence of Thiru.K.Sathyamoorthy, learned counsel for the Petitioner/plaintiff and Thiru.K.Rajasekaran, learned counsel for the 3rd Respondent/2nd Proposed party and the 1st Respondent/defendant and the 2nd Respondent/ 1st Proposed parties are called absent and set exparte, upon hearing the both and having stood for consideration till date, this court delivered the following.

Order

This petition has been filed by the petitioner under Order 1 Rule 10(2) of CPC to implead the proposed parties as defendants 2 & 3 in the above suit.

2. The brief facts of the Affidavit is as follows:-

The petitioner is the plaintiff in the above suit. The Petitioner/ plaintiff has filed the above suit for the relief of recovery of money against the respondent/defendant based on the Sale Agreement. The plaint mentioned suit property is now transferred to the above proposed parties. The respondent/defendant already exparty in the main suit. Later on verified the Encumbrance certificate, the petitioner came to know about that the suit property was transferred to the others. In this situation, the petition mentioned proposed parties should be added as 2nd and 3rd defendants in the original suit. Unless the 2nd and 3rd Respondents/proposed parties here in as added as a party to the suit the main object of the suit could not be finalized and the petitioner will be put into irreparable loss and hardships. Hence, the petitioner prays to allow this petition.

3. The brief fact of the counter statement filed by the 3rd Respondent / 2nd Proposed party is as follows:-

The petition is false, frivolous and not maintainable in law and on facts. The averments made in the affidavit are all false and are all hereby specifically denied and the petitioner is put to strict proof of the averments made therein. The suit is an abuse of process of law. The petitioner/plaintiff and the 1st respondent/defendant are all closely related to each other and in connivance with each other, they have fraudulently created a unregistered sale agreement dated 30.03.2015 prior to the filing the suit and filed the suit to gain wrongfully. The said sale agreement was never come into existence as on 30.03.2015. The petitioner did not enter into any unregistered

sale agreement with the 1st respondent/defendant on 30.03.2015 and did not advance a sum of Rs.10,00,000/- as sale advance to the said 1st respondent/ defendant herein. Further, it is denied that the time to comply with the terms of the sale agreement was fixed as 100 days from 30.03.2015. Thereafter, the petitioner/plaintiff did not make any attempt either within a period of 100 days or within a period of three years to perform his part of sale agreement. The petitioner was never ready and willing to perform his part of sale agreement dated 30.03.2015. The petitioner did not make any attempt to pay the balance sale price to the 1st respondent/defendant. In fact the sale agreement dated 30.03.2015 was created by the plaintiff and the defendant prior to the filing of this suit. The suit was filed by the plaintiff only on 12.07.2022 and beyond the period of limitation for filing the suit for specific performance. The petitioner/plaintiff has no capacity to advance a sum of Rs.10,00,000/- on 30.03.2015 to pay the same to the 1st respondent/defendant. The petitioner/plaintiff did not issue any pre-suit notice either to the defendant D.Priya or to the proposed parties. The suit property was originally belonged to M.Ganesan, S/o.Mariappan and his son G.Naveen Kumar by virtue of a compromise decree passed in O.S.No.907/1994 by the Sub Judge Court, Salem. In the said compromise decree, the suit property was allotted to the share of M.Ganesan. The said M.Ganesan along with his sons G.Naveen Kumar executed a registered Gift Settlement deed on 18.02.2011 in favour of G.Priya, D/o.Ma.Ganesan and W/o.Jagan, residing at 1/143K, Vanniyar Nagar, Meyyanur, Alagapuram Village, Salem.

4. Further, stated that the said 1st respondent/defendant having acquired title over the suit property sold the suit property to one V.Karthick, S/o.Venugopal for valuable sale price of Rs.12,00,000/-and the said sale was known to the petitioner/plaintiff even on the date of sale itself. The said Karthick is a bonafide purchaser for true value. Subsequently, the said Karthick, the 1st proposed party herein has sold the suit property to the 2nd proposed party namely Tmt.Dhanalakshmi, W/o.Selvaraj for the valuable sale price of Rs.12,85,500/-. Now the 2nd proposed party is in possession of the suit property and paying property tax to the Salem Corporation and the electricity charges are paid to the TNEB. The patta in respect of the suit property has also been transferred in the name of the 2nd proposed party. The 2nd proposed party is now owned and possessed the suit property and she is in peaceful possession and enjoyment of the suit properties. The proposed parties 1 and 2 are all unnecessary parties to the suit proceedings. The sale agreement dated 30.03.2015 is a fraudulent one and created after the suit property was purchased by the 2nd proposed party Dhanalakshmi on 11.10.2021. The petitioner/plaintiff did not advance any money as sale advance to the said G.Priya as on 30.03.2015. The petitioner/plaintiff is not entitled to claim statutory charge over the suit property on the basis of the fraudulent sale agreement dated 30.03.2015. There is no bonafides and merits in the petition and the petition is not maintainable in law and on facts. Hence, the 2nd proposed party prays to dismiss the petition with exemplary costs.

5. Now the point for consideration is:-

Based on the averments made in the petition and counter, this court has framed the following point for consideration:

Whether this petition is liable to be allowed or not?

6. Point:-

This petition filed by the petitioner/plaintiff under Order 1 Rule 10(2) of CPC to implead the proposed parties as defendants 2 & 3 in the above suit.

7. The Petitioner side counsel has argued that, the suit property is now transferred to the above proposed parties. The respondent/ defendant already a party in the original suit. After verified the Encumbrance certificate, the petitioner came to know about that the suit property was transferred to the above proposed parties. The proposed parties to the sale should be added as the necessary parties to the suit. Therefore, the proposed parties are added as 2nd and 3rd defendants in the original suit. Hence, he prayed that this petition has to be allowed.

8. On the other hand the 3rd respondent/ 2nd proposed party counsel has argued that, the sale agreement is a created and concocted by the petitioner and 1st respondent with a view to extract money from the proposed parties/ respondents 2 and 3. The said sale agreement was never came into existence as on 30.03.2015. The petitioner/plaintiff was never ready and willing to perform his part of sale agreement dated 30.03.2015. Further, he argued that the suit property was originally belonged to M.Ganesan, and his son G.Naveen Kumar by virtue of a compromise decree passed in O.S.No.907/1994 by the Sub Judge Court, Salem. The sale

agreement dated 30.03.2015 is a fraudulent one and created after the suit property was purchased by the 2nd proposed party Dhanalakshmi on 11.10.2021. The 2nd proposed party is a bonafide purchaser for true value as such the proposed parties are all unnecessary parties to the suit proceedings. Hence, the proposed parties are unnecessary parties to the suit. Therefore, he prayed for dismissal of this petition.

9. On perusal of records and by considering the arguments advanced by the petitioner/plaintiff and the R2/ 1st proposed parties it reveals that the petitioner/plaintiff has filed the suit only for return of advance amount/ recovery of money based on the unregistered sale agreement dated 30.03.2015. Further, the petitioner/plaintiff has not filed a suit for the relief of specific performance within the stipulated period. On perusal of the encumbrance certificate filed by the petitioner/plaintiff this court came to know that the suit properties were already sold to the R2/ 1st proposed party before filing of the suit i.e., on 11.10.2021 itself. In this juncture, I am of view that the earlier purchaser need not be added as party in the suit, Since the suit is not for a relief of specific performance. The petitioner/plaintiff has to establish that the unregistered sale agreement was truly executed by the 1st respondent/defendant in favour of the petitioner/plaintiff. Then only, the petitioner/plaintiff can proceed against the property of the 1st respondent/defendant. In this case, the alienation of the suit property was already happened and the R2/ 1st proposed party has executed a sale deed for the portion of suit property in favour of the R3/ 2nd proposed party. By considering the nature of the suit and the relief sought for by the petitioner/plaintiff, I am of view that the proposed parties need not be

added as parties and they need not be put into peril based on the unregistered sale agreement. Therefore, the petition filed by the petitioner/plaintiff under Order 1 Rule 10 (2) of C.P.C is not maintainable devoid of merits and liable to be dismissed.

In the result, this petition is dismissed. No cost.

Dictated to the Steno-typist, directly typed by her corrected and pronounced by me in open court on this the 08th day of September, 2025.

(Sd/-R.Velaras)
I Additional District Judge,
Salem.

Annexure : NIL

(Sd/-R.Velaras)
I Additional District Judge,
Salem.

Order uploaded on 08.09.2025