

IN THE COURT OF I ADDITIONAL DISTRICT JUDGE, TIRUVALLUR

**PRESENT: Thiru.S.GANAPATHISAMY, B.A., B.L.,
I Additional District Judge, Tiruvallur**

Friday, the 23rd day of September 2022

**I.A.No.3 of 2022
in
O.S.No.17 of 2018**

R.Radhakrishnan

... Petitioner / Plaintiff

Vs.

1. R.Neelakandan
2. N.Selvarani
3. P.S.Logamurthy
4. R.Mani Mudaliar
5. N.Sundari

... Respondents / Defendants

6. Mr.R.Kanniyan

... 6th Respondent / Proposed 6th Defendant

This Petition coming on 12.09.2022 before me for final hearing in the presence of Mr.T.Narayan, Mr.D.Muthurangan and Mr.Muthukumaravel, learned counsels for the Petitioner / Plaintiff; M/s. A.R.Poovannan, learned counsel for the Respondents 1 and 2 / Defendants 1 and 2, respondents 3 to 6 are remaining in exparte and upon hearing both side arguments; perusing the related records, and having stood over for consideration till this day, this Court delivers the following :-

ORDER

The petitioner / plaintiff has come forward with this application under Order 1 Rule 10 of CPC to implead the 6th respondent as 6th defendant interalia alleging that during the pendency of the suit, the second defendant sold the first item of the suit properties to the 6th respondent on 23.03.2022 and the petitioner came to know about

the alienation through encumbrance certificate obtained by the plaintiff after the 6th respondent attempted to trespass into the first item of the suit property on 30.03.2022. The plaintiff has stated in his affidavit that the sale deed dated 23.03.2022 is null and void and the 6th defendant is necessary party for the controversy to be decided effectively and finally.

2. The 4th to 6th respondents have not filed their counter in spite of their counsels were present on 12.09.2022.

3. The 1st to 3rd respondents have resisted this application by way of their counter that the plaintiff has wrongly mentioned the service connection number for item No.6 which has been disclosed in the written statement filed by the 1st to 3rd defendants and without giving any particulars about the 6th respondent, the petitioner has filed this application without any bonafide intention and the 6th respondent is not a necessary party.

4. Heard both side.

5. The point for consideration in this application is whether the 6th respondent can be impleaded as 6th defendant?.

6. The petitioner / plaintiff has filed the main suit for the relief of declaration and for consequential injunction. The petitioner has produced a copy of sale deed dated 23.03.2022 executed by the second defendant in favour of the 6th

respondent with respect to the first item of the suit properties. The respondents have not denied the above sale deed. In a suit for declaration, even the subsequent purchasers pending suit can be impleaded. There is no bar in Order 1 Rule 10 of CPC to implead the subsequent purchaser. Nowadays, the parties to the suit used to alienate the suit property to the 3rd party for consideration and step away from the litigation thereby jeopardising the purchasers interest also. If a pendente lite purchaser is made as a party to the litigation, he can at least protect his interest from being defeated by the actions of his vendors. If the 6th respondent is not impleaded, the plaintiff will be affected. Therefore, the outcome of the suit would affect the interest of the 6th respondent. Therefore, the 6th respondent is a necessary party. There is no valid objection in the counter.

7. In the result, the petition is allowed. No costs.

Dictated by me to the Steno-Typist and transcribed by her, corrected and pronounced by me in the open Court on this the 23rd day of September 2022.

Sd/S.GANAPATHISAMY
**I Additional District and Sessions Judge,
Tiruvallur**

Both side Witness and Exhibits:- Nil

Sd/S.GANAPATHISAMY
**I Additional District and Sessions Judge,
Tiruvallur**

Fair/Draft Order

I.A.No.3/2022 in

O.S.No.17/2018

DD : 23/09/2022