

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

**PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.**

Thursday, the 28th day of March 2024.

I.A.1 of 2023

IN

O.S.No.23 of 2021

K.Mani

..... Petitioner/Plaintiff

Versus

1. B.Sathiskumar

2. V.VR.Arasu

3. M.Arunagiri

4. A.Vasanthi

5. S.S.Ravendran

..... Respondents/Defendants

..... 3 to 5 Respondents/ 3 to 5 Proposed defendants

This petition having come on 28.03.2024 before me for final hearing in the presence of Mr.J.Elumalai, learned counsel for the petitioner, Mrs. Revathy, Learned Counsel for the 1st Respondent, Mr.G.Nandagopal, Learned Counsel for the 2nd Respondent, Mr.R.Pratheep Kumar, Mr.Anandan, learned counsels for the Respondents 3 and 4 and Mr.S.Balasubramanian, Mr.G.Balu, learned counsels for the 5th respondent, respondent. Upon hearing the arguments made by the learned counsels for the petitioner and the respondents and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following

ORDER

1. This application is filed under Order 1 Rule 10(2) r/w Section 151 of CPC to implead the 3rd to 5th Respondents as 3rd to 5th Defendants in the suit.

2. Brief averments of the affidavit filed by the Petitioner are as follows:

The petitioner who is the plaintiff in the suit submits that he has filed the above suit in OS.No.23/2021 for a relief of declaration to declare the that the registered sale deed dated 28.03.2006 vide document No.1812/2006 as null and void and for a relief of permanent injunction. The petitioner submits that during the pendency of this suit on 14.11.2022 the 3rd and the 4th respondents have executed a sale deed to and in favour of the 5th respondent with respect to the suit property and registered the same vide document No.10016/2022 on the file of SRO, Thiruvotriyur. The above sale is squarely hit by the Doctrine of Lis-pendens and the petitioner was not a party to the said sale and therefore, it will in no way affect the rights and liabilities of the petitioner over the suit property. Hence the sale dated dated 14.11.2022 is void and not binding on the petitioner and the same is to be declared as null and void. Hence the respondents 3 to 5 are to be impleaded as parties to the suit to avoid multiplicity of the proceedings. Hence this Petition.

3. Brief averments of the Counter filed by the 3rd Respondent on his behalf and on behalf of the 4th Respondent are as follows:

3.1. The 3rd respondent submits that the suit property in Thiruvallur District, Ponneri Taluk, No.150, Vichoor village, Nanjai Agricultural land comprised in survey No.109/2 measuring to an extent of 0.66 cents which was purchased by the petitioner's father K.Kasi along with the land measuring 75 cents comprised in Survey number 109/1B totally measuring 1 Acre 41 cents on 05.12.1985 from one C.T.Jambulinga Mudaliar vide a registered sale deed bearing number 3727/1985, on the file of Thiruvottiyur Sub-Registrar office. The father of the petitioner K.Kasi already had 1 Acre 25 cents of agricultural land comprised in Survey number 109/1A2 which was acquired from his ancestors. The patta bearing No.107 was in the said K.Kasi's name and the said K.Kasi was in continuous possession of the said lands. According to the Revenue Records the total area of the Survey No.109 is 1 Hectare 64.5 Ares i.e., 4 Acres 6.79 cents. The Survey Number 109 was subdivided

into 109/1A1 measuring 0-57.0 Hectares, 109/1A2 measuring 0-50.5 Hectares, 109/1B measuring 0-30.5 Hectares and 109/2 measuring 0-26.5 Hectares. The said K.Kasi died in the year 2000 leaving behind the petitioner, the petitioner's brother K.Manavalan and the petitioner's sister Mrs.Aravalli as his legal heirs.

3.2. The 3rd respondent submits that in the year 2001, March 29th the petitioner and his brother K.Manavalan had sold the agricultural land measuring 66 cents comprised in Survey No.109/2 to one Mathiazhagan vide a registered sale deed bearing No.4393/2001, registered in the file of SRO Thiruvotiyur. The petitioner, his brother K.Manavalan and the said Mr.Mathiazhagan, had then created three General power of Attorney deeds vide D.Nos. 1845/2005, 1846/2005 & 452/2006 respectively for the properties left by the petitioner's father K.Kasi. In that deeds they have mentioned wrong survey numbers of the properties.

3.3. The 3rd respondent further submits that the petitioner along with his brother Manavalan, Sister Aravalli, S.Mathiazhagan, the first Respondent B.Sathishkumar, V.V.R.Arasu and V.V.Kathikeyan had jointly sold the schedule mentioned property of 66 cents in Survey No.109/2 along with 9 cents in Survey No.109/1B and 1.25 Acres in Survey No.109/1A2 totally 2.00 Acres to and in favour of one S.Manojkumar and M.A.C.Mohamed Ali on 04.04.2007 vide a registered sale deed bearing No.4714/2007 on the file of SRO Thiruvottiyur. The sale deed Number was falsely mentioned as 4717/2007 and later by a rectification deed it was corrected.

3.4. The 3rd respondent further submits that subsequently in the year 2011 on 30.03.2011 the 3rd and the 4th respondents have purchased the said lands measuring 66 cents in Survey No.109/2 along with 9 cents in Survey No.109/1B and 1.25 Acres in Survey No.109/1A2 totally measuring 2.00 Acres from the said Manojkumar and Mohamed Ali vide a sale deed registered as Document Number 2418/2011 on the file of the SRO, Thiruvottiyur.

3.5. The 3rd respondent submits that after the said purchase of the lands the Revenue records were mutated in the 3rd and the 4th respondents' names and they were in absolute possession of the said properties. The petitioner has committed a fraud by falsely alleging that his signatures were fabricated in the earlier sale deed. The aim of the petitioner is to grab money from the 3rd and the 4th respondents. The entire allegations made by the petitioner in the petition are false. The petitioner/plaintiff has dishonestly and fraudulently stated false and imaginary facts before this court. Hence the petitioner/plaintiff has no locus standi to seek any relief as the petitioner/plaintiff has no right and title over the suit properties under the law of Transfer.

3.6. The 3rd respondent submits that he and the 4th respondent are the bonafide purchasers of the suit property along with other properties from its title holders. The 3rd respondent further submits that he had obtained Electricity connection in respect of the said property purchased by him and also had obtained Patta for the same in No.1993 and had paid tax till he and the 4th respondent disposed the said property. They have then sold the said property to the 5th respondent for valid consideration vide a registered sale deed bearing document No.10016/2022 and the 5th respondent is in absolute possession of the said properties.

3.7. The 3rd respondent further submits that this petition has been filed by the petitioner with intention to grab money from the respondents. Hence the petition is liable to be dismissed with exemplary costs.

4. Brief averments of the Counter filed by the 5th Respondent are as follows:

The 5th respondent has reiterated the same contentions as stated in the counter affidavit of the 3rd respondent and submits that he is the bonafide purchaser of the land measuring 1.25 acres comprised in Survey No.109/1A2, 4 cents in Survey No.109/1B1, 5 cents in Survey No.109/1B3 and 109/2 and that he is doing construction in the said property. The petitioner had created and filed this vexatious petition with an intention to extract money from the respondents. Hence prays for dismissal of this petition with exemplary costs.

5. The respondents 1 and 2 have stated no counter to this petition and have made endorsements in the petition to that effect.

6. Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

7. Heard both sides arguments. Records Perused.

8. On an analysis of the material case records and on considering the arguments of both sides, this court finds that the petitioner is the plaintiff in the suit and that the suit has been filed by the petitioner for a relief of declaration to declare a sale deed as null and void and for a relief of Permanent Injunction as against the defendants with respect to the suit property. When the suit was pending for trial, this petition has been filed by the petitioner to implead the 3rd to 5th respondents as 3rd to 5th defendants in the suit, who is the subsequent purchaser of the suit property. The petitioner contends that during the pendency of the suit, the 3rd and the 4th respondent have sold the suit property along with other properties to the 5th defendant without any right or interest over the same vide a registered Sale deed dated 14.11.2022 in Document No. 10016/2022 registered with SRO at Thiruvottiyur and that the petitioner further contends that the said Sale Deed has been created by the 3rd and the 4th Respondent only to defeat the rights, title and interest of the petitioner over the suit property. Hence this petition has been filed to implead the 3rd to 5th respondents as Defendants in the suit stating that they are proper and necessary parties to the suit.

9. On the other hand, the respondents 1 and 2 have stated that there is no counter on their side to this petition. The respondents 3 to 5 contend that the 3rd and the 4th respondents have purchased the suit property along with other properties for valid sale consideration from rightful owners and have sold the same to the 5th respondent. The 3rd to 5th respondents also state that this petition has been filed by the petitioner only to grab money from them.

10. It is admitted fact between both the parties that the suit property was initially purchased by the 3rd and the 4th respondents and was then sold to the 5th respondent by them during the pendency of the suit. The averment that the proposed parties are bonafide purchasers or not is a vital issue involved in the suit and the same cannot be decided at the interlocutory stage as it requires detailed evaluation of evidence. In order to find out whether a person is a necessary party to the suit, it must be established that the proposed party has got a right in respect of the suit proceedings and in the absence of the said proposed party no effective decree can be passed. It is admitted between both the parties that the 5th respondent has purchased the suit property from the 3rd and the 4th respondents during the pendency of the suit vide a registered Sale Deed. Considering the above, this court concludes, that the 3rd to 5th respondents/proposed parties are necessary parties to the suit since any decree passed in the suit will also bind them. It is thus necessary to add the said proposed parties as defendants in the suit for effectual and complete settlement of issues in the suit and to avoid multiplicity of litigations.

11. In the result, this petition is allowed. No costs.

Dictated to the Steno-typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court on this the 28th day of March 2024.

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI.

Both side witnesses and documents:- NIL

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI.

Fair/ Draft Order
I.A.No.1/2023
O.S.No.23/2021
Date:28.03.2024
DMC,PNI.