

IN THE COURT OF DISTRICT MUNSIF, TIRUTTANI

Present : **Tmt. S. KAVIPRIYA, B.A., LLB.,**
District Munsif, Tiruttani

Thursday, the 11th Day of November 2021

I.A.No.395 of 2018 in O.S. No.125 of 2015

...

1. Kamaaleebec
2. Boomanibeebi
3. Hameedabee

...Petitioners/Plaintiffs

/Versus/

1. Kamalsahib
2. M.K. Kadhar
3. Fathima
4. S.M. Rafee
5. J.B. Kadhar
6. Masthaneebi
7. The District Collector, Tiruvallur
8. The Tahsildar, Tiruttani
9. The Sub Registrar, Tiruttani

...Respondents 1 to 9 / Defendants 1 to 9

10. Musthaba
11. Abdulgani
12. Mahgbool
13. Jaila
14. Basha

...Proposed parties / Respondents 10 to 14/Defendants 10 to 14

This petition came up before me for final hearing on 29.10.2021 in the presence of M/s. V. Venkatesan, Advocate for petitioners, and Mr. C.A. Natarajan, Advocate for Respondents 1 to 4, and 4th Respondent is residing at abroad hence

withdrawal of claim against R4 and Respondents 5 to 14 remained *ex parte* and upon hearing both sides, after perusing records and having stood over for consideration till this day, this court delivered the following:-

ORDER

This petition is filed under order 1 Rule 10 (2) of CPC to implead the parties mentioned in the petition as defendants 10 to 14 in the above suit for property adjudication.

The petition in brief:-

2. The petitioners filed the suit for declaration and injunction against the 1 to 4 defendants. In the above suit the 2nd defendant created a false document in respect of the suit B schedule property and other properties. The 2nd defendant based on the false registered sale deed doc.No.7105/2009 filed his written statement that 2nd defendant purchased the suit B schedule property from the absolute owners. As the matter of fact the S.No.366/7 to S.No.366/10 which are houses belonged to Musthapa, Kamaal sahib and one Sathar shaib under patta Nos.292, 54, 15 and 114 the S.No.366/11 which is a vacant house site porambokku which is in possession and enjoyment of the petitioners and S.No.366/12 is a path way has been mentioned in the Revenue records. This defendant created a false document knowingly mentioned the old S.No.218/7 and as per he boundaries mentioned in the above said false deed as there is houses and house site porambokku land and pathway the executants of the above said sale deed without having any right and title executed infavour of the 2nd defendant as vacant site and mentioned as there is no houses in the extent mentioned east to west 18 ½ feets, north to south 65 feets in which the above said houses path way is there. Since the 2nd defendant filed his statement that he purchased the B schedule property from its original owners under doc. No.7105/2009 and as such in the above suit prayer is to declare the sale deed doc.No.7105/2009 is null and void, the petitioner have to implead the necessary owners of S.No.366/7, 366/9 and 366/10 as defendants to prove the sale deed doc.No.7105/2009 is created one and null and void. By over sight the petitioner have not added the above said owners as

defendants. Since the petitioner is having good merits to their case and to prove their bonafide and merits in the above case. Hence, this petition filed.

The counter filed by 2nd Respondent and adopted by the Respondents No.1 & 3 in brief:-

3. The petition is not maintainable either in law or on facts. The allegations in para 4 of the affidavit that they are necessary parties and implead them and that 5th respondent died on 30.10.2018 leaving behind his wife and his sons only legalheirs, etc, are not fully correct. The petitioners have not filed any death and LR certificate of 5th respondent to implead them as parties. There are no bonafide merits in this petition. Hence, the petition is liable to be dismissed in limine.

Point for consideration:-

4. Whether the petitioners are entitled to the relief as sought for?

5. The suit is for declaration and injunction against the 1 to 4 defendants. The 2nd defendant filed his statement that he purchased the B schedule property from its original owners under doc. No.7105/2009 and as such in the above suit prayer is to declare the sale deed doc.No.7105/2009 is null and void, the petitioner have to implead the necessary owners of S.No.366/7, 366/9 and 366/10 as defendants to prove the sale deed doc.No.7105/2009 is created one and null and void. Hence, the petitioner filed this petition to implead proposed parties.

6. Since, the main dispute is on B schedule property. The 10 to 14 defendants/respondents are the necessary parties to implead in the suit. Hence, this Court is of view that the proposed parties are the proper and necessary parties who are the subsequent purchasers of the suit B schedule property. But, petitioners/plaintiffs filed this petition only now after the lapse of more than 3 years. It is the petitioner duty to take steps about the encumbrance of the suit property. The suit was filed in the year 2015 and pending for trial stage and they have to be impleaded for proper adjudication of the case. Hence, in the interest of justice, to prevent multiplicity of proceedings, to provide petitioners an opportunity to prove the case and for proper adjudication of the case this petition has to be allowed on costs.

In the result, the petition is allowed on costs of Rs.350/- to 2nd respondent. Cost to be paid on or before 16.11.2021 failing which this petition shall stand dismissed. Call on 16.11.2021.

Dictated to Steno – Typist, computerized by her directly, corrected and pronounced by me in open court, this the 11th day of November 2021.

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

Both sides Exhibits and witnesses: NIL

Sd/- S. Kavipriya
District Munsif,
Tiruttani.