

IA No.1/2020 in OS No.6/2013**02.09.2021****Orders pronounced:**

This Petition is filed under Order 1 Rule 10(2) of CPC & sec 151 civil Procedure Code by the petitioners/ plaintiffs to implead the proposed 6th Respondent as 6th defendant in the suit.

The petitioner herein is the 2nd plaintiff in the suit. The petitioner filed the petition for himself and behalf of 1st plaintiff. The plaintiffs filed the suit seeking for the relief of Declaration and permanent injunction against the defendants. It is stated by the petitioner that the suit in the stage of trial and the defendants has entered appearance and filed their written statement. It is stated by the petitioner that in the written statement filed by the 1st Defendant it is mentioned that the property in the survey No.494/3 is sub divided in to 494/3A, 494/3B, 494/3C and 1st defendant sold the said property in survey No.494/3B to Periyadurai S/o Arunagiri @ Pandi

thevar under the sale deed date 09.08.2010. It is stated by the petitioner that Periyadurai is a necessary party in the suit and if periyadurai is not added as a party in the suit, the suit will be bad for non-joinder of necessary party. Hence the petitioner states that Periyadurai is a necessary party in the suit. It is stated by the petitioner that no prejudice will be caused to the respondent if this petition is allowed. Therefore, the petitioner filed this petition to implead to proposed 6th Respondent as 6th Defendant in the suit.

On the side of respondent 1 to 5 they endorsed as “No counter”. Already R6 was called absent set exparte.

Now the point for consideration is whether the petition is liable to be allowed or Not?

Up on hearing the petitioner side and on perusal of records, it is found that the plaintiffs filed this suit for Declaration and permanent injunction against the defendant. It is stated by the petitioner that the 1st defendant sold the

property in survey No.494/3B to Periyadurai S/o Arunagiri @ Pandi thevar under a sale deed dated 09.08.2010. As one of the portion of suit schedule property is alienated to Periyadurai, he becomes the sole and absolute owner of the said property. Periyadurai being the subsequent purchaser of the suit property he would be a necessary party to the suit.

Considering the above reasons this court is inclined to allow this application.

In the result, this petition is allowed without costs.

(S/d R.Mahalakshmi)

A.D.M.
S.N.K.L.

Order 1 Rule 10(2) CPC enables the court to add a necessary or proper party so as to effectually and completely adjudicate upon and settle all the question involved in the suit. Thus a person who has direct interest and right in the subject matter of the suit should be given an opportunity of being heard. Therefore, it is necessary to implead 6th respondent as 6th defendant in the suit, so that the plaintiff right to relief could be completely adjudicated, against the defendants. Hence this court holds that the proposed 6th respondent is necessary party for effective and complete adjudication and shall be impleaded as 6th defendant in the suit.