

IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT
PRESENT: THIRU. K.VENKATESAN, B.A.,B.L.,
DISTRICT MUNSIF, KATPADI.

Friday, this the 11th Day of August – 2023

I.A.No. 04 of 2023
In
O.S.No. 118 of 2014
(CNR.No.TNVL23-000101-2014)

M.Krishnan

.....Petitioner/Plaintiff

-Vs-

1. M.Neelamegam

.....Respondent/Defendant

2. Kothandaraman

.....Respondent/Proposed Party

This petition has come up today before this Court for orders, and upon hearing the arguments of Thiru. N.N.Pugazhendhi, the Counsel for the petitioner/plaintiff and the 1st Respondent who appeared as party in person, and even after sufficient time, the 2nd Respondent failed to file his Counter, and he was called absent & was set ex-parte, and upon perusing the petition, counter and the case records, and having stood over for consideration till this day, this court delivers the following:-

ORDER

This petition has been filed by the petitioner/plaintiff under Order VI Rule 17 and Section 151 of Civil Procedure Code for permit him to amend the plaint as per the particulars mentioned in the petition.

1. **Brief averments of the affidavit filed by the petitioner is as follows:-**

The petitioner is the plaintiff in the above suit filed for declaration and consequential injunction as against the respondent/defendant, and the same has been posted for further cross examination of PW-1. While pending trial, the petitioner reliably came to know that the 1st respondent/defendant has sold some portion of the suit schedule property in favour of the 2nd respondent/proposed party by way of Registered Sale Deed Dated 13.04.2022, and its documents bearing number is 3643/2022. The said property in S.No.222/2A to an extend of 0.04 ½ cents were allotted to the petitioner by way of 01.01.1994 dated Koor Chit, out of which 0.02 cents were sold by the 1st respondent/defendant to the 2nd respondent/proposed party. The aforesaid alienation is against law. To implead the proposed party as 2nd defendant is necessary and the same has been allowed by this Court in I.A.No.1/2022 dated 24.01.2023, and thereby it is necessary to amend the short cause title, long cause title and address of parties by adding the proposed party as 2nd defendant, and also amending the pleadings, prayer and particulars of valuation, for proper adjudication of the case. For the reasons above, it is necessary to amend the plaint otherwise the petition will put to irreparable loss and hardship, and prays permission to amend the plaint detailed in the particulars of amendment mentioned in the petition.

2. **Brief averments of the counter filed by the 1st respondent is as follows:-**

Originally, the suit schedule property is belongs to the defendant's father Margabandhu and he purchased the same out of his own income, and he was in possession and enjoyed the same. The 1st respondent/defendant parents namely Margabandhu & Valliammal were jointly executed a Registered Settlement Deed vide Doc.No.3512/1996, on the file of Sub-Registrar, Katpadi, dated 30.10.1996 in favour of the 1st respondent/defendant. Since then, the 1st

respondent/defendant has been in possession & enjoyment of the suit property, and he is the absolute owner of the same. About 40 years ago, when the 1st respondent/defendant parents were alive, the petitioner/plaintiff had sold the joint family properties, and got money and did separate business, and thereby acquired and enjoyed various properties. But, the petitioner/plaintiff suppressed the above facts, and he has been filed this Suit based on the Unregistered Koor Chit. By this, the petitioner/plaintiff has attempted to acquire the 1st respondent/defendant's property by way of illegally and fraudulently. Without any basis of legal documents, the petitioner/plaintiff has filed this vexatious, false and baseless suit with an intention to grab the 1st respondent/defendant's property by mentioning false averments, and played fraud in Court. Hence, the 1st respondent/defendant prayed to dismiss the suit.

3. Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court.

4. **Point for Consideration:-**

a) Whether the petition is entitled to be allowed or not?

5. **Answering to the Point:-**

Both sides has been heard. Records perused. Upon careful analysis of the entire case records including the petition, counter and upon considering the arguments on either side, it is found that the suit has been filed for declaring the plaintiff's title over the schedule properties and consequential permanent injunction, and for costs. In the petition affidavit, the petitioner states that during pendency of the suit, the 1st respondent sold some portion of the suit schedule property in favour of the 2nd respondent/proposed party. Already, the said proposed party was impleaded by this Court vide Order passed in I.A.No.1/2022 dated 24.01.2023. Hence, the

petitioner has filed the present petition seeking for permission to amend the plaint. On the other hand, the 1st respondent raised contention only with regard to suit but not with the proposed amendment.

6. Upon considering the records, this Court was already allowed I.A.No.3 of 2022 dated 24.01.2023, and impleaded the proposed party in the above suit as he purchased some portion of the suit property from the 1st respondent/defendant while pending suit. Hence, this Court of view that this petition is mere a consequential one, and if the petition is allowed that it would not going to be prejudiced the respondents. The counter objections are meritorious contention involved in the suit. This Court taking such view to consider this petition of amendment which would not create any new cause of action. In this circumstances, this Court inclined to allow this petition. Accordingly, the point is answered in favour of the petitioner.

7. **Result:-**

In fine, from the above said discussion, in the interest of justice, this petition is allowed.

No costs.

-//Dictated by me to the steno-typist, who directly typed the same and corrected and pronounced by me in the open court, on this the 11th Day of August – 2023.//-

DISTRICT MUNSIF
KATPADI

Both sides documents and witnesses: **NIL**

DISTRICT MUNSIF
KATPADI