

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE  
VIRUDHUNAGAR**

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.M.**,  
Additional District Judge, Virudhunagar

Wednesday, the 10<sup>th</sup> day of January, 2024

**IA No.5/2023 in OS.No.51/2021**

1) G.Uma  
2) G.Ananthi  
3) G.Sivamuthu ... Petitioners/Defendants 2 to 4

Vs

1) G.Muthumari ... 1<sup>st</sup> Respondent/Plaintiff  
2) Manoharan  
3) The Sub-Registrar, Sivakasi ... Respondents 2 to 4/Defendants 5  
4) The Tahsildar, Sivakasi to 7  
5) A.Priya ... Proposed Respondents 5 to 16/  
6) G.Natarajan Proposed Defendants 8 to 19  
7) M.Thirunavukkarasu  
8) K.Ramasamy  
9) S.Pandiarajan  
10)P.Singarajan  
11)P.Manikandan  
12)N.Sureshkumar  
13)M.Muthu  
14)T.Rajkumar  
15)P.Murugesan  
16)T.Ramesh

This petition came up on 06.01.2024 for final hearing before me in the presence of Thiru.M.Muthukrishnan, Learned advocate for the petitioners, Thiru.R.Muthuraman, Learned advocate for the 1<sup>st</sup> respondent, Thiru.S.V.Nagarajan, Learned advocate for the 2<sup>nd</sup> respondent, the respondents 3 & 4 remained exparte and upon considering all material records in this case and hearing on both sides and having stood over till this day for consideration and this court doth deliver the following

**ORDER**

Petition filed under order 1 rule 10 (2) and section 151 CPC to implead respondents 5 to 16 as defendants 8 to 19.

2. The averments in the affidavit and petition are as follows:

The petitioners are the defendants 1 to 3. The plaintiff/1<sup>st</sup> respondent is the sister of the petitioners. Suit properties are the properties of petitioners' mother Ramanujammal. During the life time of Ramanujammal, the 1<sup>st</sup> respondent plaintiff filed the suit before District Court, Srivilliputtur as OS No.27/2014 for partition. In order to maintain the family relationship, the petitioners, Ramanujammal and the 1<sup>st</sup> respondent arrived at a compromise. So Ramajuammal executed a gift deed in favour of 1<sup>st</sup> respondent with respect to 3 acre 56 cent in survey number 1545/1 and 1 acre 94 cent in survey number 1545/2A. The 1<sup>st</sup> respondent agreed to withdraw the suit. But, before recording the compromise, Ramanujammal died on 22.12.2015. Taking advantage of death of Ramanujammal, the 1<sup>st</sup> respondent is conducting the suit. Then 1<sup>st</sup> respondent sold the property to respondents 5 to 16. So the respondents 5 to 16 have to be impleaded in the case. If they are not impleaded, the petitioners will not be able to get the fruits of the decree.

3. 1<sup>st</sup> Respondent filed counter with following contentions:

The averments in the affidavit are false. This respondent filed the suit for partition of her 1/4 share in suit properties. This respondent's mother executed a gift deed and transferred 1 acre 94 cents in survey number 1545/2A and 3 acre 56 cents in survey number 1545/1 on 14.12.2015 in favour of this respondent. Then this respondent sold 1 acre 94 cents in survey number 1545/2A in favour of respondents 5, 6,14,16. The petitioners filed IA.No.4/2023 to include the survey number 1545/1 in this case and it was dismissed on 02.09.2023. The mother of petitioners executed a gift deed in favour of 3<sup>rd</sup> petitioner with respect to 1 acre 68 cent in survey number 1551. She sold it to 12 others. The petitioners and the respondent jointly sold 5<sup>th</sup> item of suit property to 3<sup>rd</sup> parties. Since, the alleged sale in favour of respondent 5 to 16 are during the pendency of suit, they are not necessary parties to this suit. Only to delay the proceeding this petition is filed.

4. Point for consideration is whether the petition has to be allowed?

5. Heard both sides.

6.Point:

The petitioners herein are the defendants 2 to 4 in the suit. The 1<sup>st</sup> respondent/Plaintiff is the sister of this petitioners. Their mother Ramanujammal (since deceased) is the 1<sup>st</sup> defendant in the suit. The 1<sup>st</sup> respondent/Plaintiff filed the suit stating that the suit properties are ancestral properties of Lakshmi who is the mother of the 1<sup>st</sup> defendant. After her death, her only legal heir 1<sup>st</sup> defendant, plaintiff and defendants 2 to 4 inherited the properties and so the 1<sup>st</sup> respondent is claiming 1/4 share in the suit properties.

7. Now, it is the allegation of the petitioners that during the pendency of the suit, in order to maintain harmony in the family a compromise was arrived between the parties and 1<sup>st</sup> defendant mother executed a gift deed in favour of the 1<sup>st</sup> respondent with respect to 3 acre 56 cent in survey no.1545/1 and 1 acre 94 cent in survey no. 1545/2A. The 1<sup>st</sup> respondent agreed to withdraw the suit. But immediately after that 1<sup>st</sup> defendant/mother died on 22.12.2015 and taking advantage of that fact now the 1<sup>st</sup> respondent is continuing the suit without withdrawing the suit as agreed by her. Then 1<sup>st</sup> respondent sold the suit 1<sup>st</sup> schedule 3<sup>rd</sup> item properties in survey no.1545/2A in favour of respondents 5 to 16. So respondent 5 to 16 have to be impleaded in this case.

8. The 1<sup>st</sup> respondent contented that properties sold are already gifted by her mother in her favour. Mother has executed gift deed in favour of 3<sup>rd</sup> petitioners also with respect to some other property and she had also sold it. Moreover since the alleged sale in favour of respondents 5 to 16 are during the pendency suit and so they are not necessary parties.

9. The petitioners' prayer is to implead the purchasers from 1<sup>st</sup> respondent. It is seen from the affidavit that the 1<sup>st</sup> respondent sold the property to 5<sup>th</sup> respondent on 11.10.2018. She sold property to the 6<sup>th</sup> respondent on 29.10.2018, to the 7<sup>th</sup> respondent on 24.12.2018, to the 8<sup>th</sup> respondent on 01.02.2019, to the 9<sup>th</sup> and 10<sup>th</sup>

... 4 ...

respondents on 04.02.2019, to the 11 respondent on 15.02.2019, to the 12<sup>th</sup> respondent and 13 respondent on 22.04.2019, to the 14<sup>th</sup> respondent on 25.04.2019 and 18.07.2019, to the 15<sup>th</sup> respondent on 25.04.2019 and to the 16<sup>th</sup> respondent on 18.07.2019. The suit was filed on 07.05.2014 itself. So, all the above sale deeds in favour of respondents 5 to 16 are during the pendency of the suit. The proposed respondents are pendente lite purchasers. They are bound by the decree and they need not be impleaded in this case. If they are impleaded, they would come with untenable contentions and delay the proceedings in this case. So this court is of the view that respondents 5 to 16 are not necessary parties to this suit and they need not be impleaded.

10. In the result, this petition is dismissed. No order as to costs.

Dictated to the steno-typist, typed by him, corrected and pronounced by me in open court, on this the 10<sup>th</sup> day of January, 2024.

Additional District Judge,  
Virudhunagar.

Witness and Exhibits on the side of the Petitioners:

Nil.

Witness and Exhibits on the side of the Respondents:

Nil.

Additional District Judge,  
Virudhunagar.

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Additional District Court  
Virudhunagar  
**IA No.5/2023 in OS No.51/2021**  
**ORDER**  
Dated: 10.01.2024  
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