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CRP No. 1625 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	08.04.2026
PRONOUNCED ON :	30.04.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 1625 of 2022

and

C.M.P.No.8133 of 2022

C.Krishnaa (Died)

1. M.Chellappan
2. Mrs.C.Prema

..Petitioner(s)

Vs

1. Mrs.S.Santhi
2. Mrs.S.Sheela
3. Mr.K. Palani
All are represented by their Power Agent,
Mr. M. Sudhakaran S/o. Muthuramalingam,
Hindu aged about 42 years and residing at
No.2A, Periyar Nagar, 2nd Street,
Adambakkam, Chennai - 600 088.
4. Mr.M.Velu,
5. Mr.L. Sivarajan
6. C.Sunilkumar
7. C.Gokulakrishnan

..Respondent(s)



Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order made in IA.No.732 of 2021 dated 23.10.2021 in O.S.No.206/2019 on the file of the Additional District Munsif Court at Alandur.

For Petitioner(s): Mr.N.Jothi
Senior Counsel
For Mr.S.Vinod

For Respondent(s): Mr. M. Thangadurai
(For RR2, 4 and 5)

For R1 - Died
For RR3, R6 and R7 – No appearance

ORDER

The present Civil Revision Petition has been filed to set aside the order and decretal order made in IA.No.732 of 2021 dated 23.10.2021 in O.S.No.206 of 2019 on the file of the Additional District Munsif Court at Alandur.

2. Heard Mr.N.Jothi, learned Senior Counsel for the petitioners and Mr.M.Thangadurai, learned counsel for respondents 2, 4 and 5.

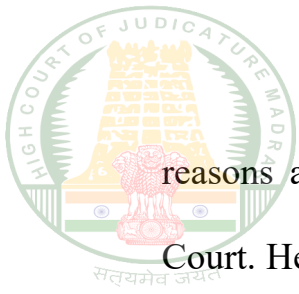
3. The learned Senior Counsel appearing on behalf of the petitioners would submit that the respondents 1 to 3 had earlier instituted a suit for permanent injunction, restraining the petitioners and the 7th respondent from interfering with their possession and enjoyment of the suit property, and that pending the suit, they had sold the property to a third party from whom the



respondents 4 and 5 claim to have purchased the suit property and had taken out an application to implead themselves in exercise of powers under Order I Rule 10(2) read with Section 151 CPC.

4. The learned Senior Counsel would vehemently contend that the said provision can only be invoked by a party to the suit and not by a third party, and that a perusal of the application would show that even though the plaintiffs have been shown as parties to the petition, the same had been only affirmed by a third party, which would indicate that the said application had been couched in such a manner to make it appear as if it had been maintained by a party to the suit.

5. The learned Senior Counsel would further rely upon a judgment of this Court in the case of *M.Selvaraj Vs. Jayadevi Krishnasamy and others*, reported in **2022 (5) MLJ 258**, to contend that such an impleading application filed by a third party cannot be entertained and that at the most, they could only be added as defendants. He would further submit that the respondents 4 and 5, being *pendente lite* purchasers, cannot be impleaded as party plaintiffs. He would submit that the trial Court, without considering all these facts, in a casual manner and merely considering that the written statement was yet to be filed, had held that it was necessary to implead the proposed parties, only then all necessary documents would be available before the Court for adjudication of the issue. He would further submit that such an order, without assigning any



reasons as to the rights of the parties, is liable to be interfered with by this Court. Hence, he seeks this Court to set aside the order of impleadment made in this revision petition.

6. Countering his arguments, Mr.M.Thangadurai, learned counsel appearing for the respondents 2, 4 and 5 would submit that the 4th and 5th respondents have stepped into the shoes of the respondents 1 to 3, who are the plaintiffs, as they had sold the property to a third party from whom the fourth and fifth respondents have purchased the same. They have also mutated the revenue records in their names and obtained licence for putting up an industry in the said place. Hence, it became necessary for them to be impleaded as party plaintiffs to the suit to protect their right and possession over the property.

7. He would submit that the petitioners are interlopers trying to interfere with the possession of the property. In support of his contention that they have purchased the property, he had also produced the documents of title and revenue records standing in their names.

8. He would further submit that the principle of *lis pendens* does not annul the conveyance but only renders it subject to the result of the pending litigation. Hence, even though being *pendente lite* purchasers, if they are not permitted to participate in the proceedings, the same would defeat their rights in



the property. He would further submit that the petition had been filed both by the plaintiffs and respondents 4 and 5 seeking to implead themselves as party plaintiffs, and therefore, the learned Senior Counsel cannot be called upon to be heard to contest that the application by a third party ought not to have been entertained by the Court. Hence, he seeks dismissal of the revision petition.

9. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

10. A suit had been instituted by respondents 1 to 3 against three individuals, alleging that there was an attempt to interfere with their possession and enjoyment of the suit property. It is now the claim of the respondents, particularly respondents 4 and 5, that respondents 1 to 3, who are the plaintiffs in the suit, had sold the property in favour of a third party from whom the respondents 4 and 5 had purchased under registered documents and that the revenue records have also been mutated in their names.

11. Even though it is the claim of the learned Senior Counsel that they are *pendente lite* purchasers, they cannot be entitled to be impleaded as parties to the suit, considering the fact that the suit is not one for declaration of title to the suit property and does not involve a challenge to the title over the suit property, this Court is of the view that the issue of *pendente lite* purchase need not be



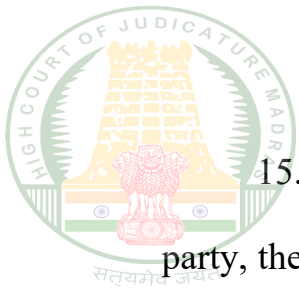
gone into in the present proceedings.

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12. The suit is one for bare injunction to restrain the defendants from interfering with the possession in the suit property.

13. An application had been taken out under Order I Rule 10(2) C.P.C. As pointed out by the learned Senior Counsel appearing for the petitioners, from a plain reading of the said provision, such an application can only be filed by a party to the proceedings. A perusal of the affidavit filed in support of the application would indicate that the plaintiffs are shown as the petitioners 1 to 3 and two individuals, who are third parties to the suit as petitioners 4 and 5, claiming themselves to be the purchasers of the property *pendente lite* and the affidavit had been sworn to by the 4th respondent.

14. This Court is of the view that the proper procedure would have been to show the fourth and fifth respondents as respondents in the petition and the application ought to have been filed by a party to the suit seeking to implead the fourth and fifth respondents as proposed plaintiffs in the suit. Therefore, the application as filed by the respondents 1 to 5 cannot be said to be a proper application.



15. That apart, if the respondents 1 to 3 had sold their property to a third party, they no longer continue to have the cause of action for which the suit was filed, as admittedly they do not continue in possession, as admitted by the 4th and 5th respondents that they are in possession.

16. Order I Rule 10(2) of CPC entitles a party to take out an application to strike off a party, who had been improperly joined or to include a party who ought to have been joined at the time of filing of the suit for effective adjudication could only be made. In that context, it would be relevant to refer to the provision under Order XXII Rule 10 CPC, which is extracted hereunder:

“Order XXII Rule 10 C.P.C.,

10. Procedure in case of assignment before final order in suit –

(1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon whom such interest has come or devolved.

(2) The attachment of a decree pending an appeal therefrom shall be deemed to be an interest entitling the person who procured such attachment to the benefit of sub-rule(1).”



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17. In the present case, the parties could only be entitled to take out an application under Order XXII Rule 10 CPC and not an application under Order I Rule 10(2) CPC, as it is necessary for the subsequent purchaser to seek permission of the Court to continue the proceedings that was initiated.

18. For the aforesaid reasons, this Civil Revision Petition stands allowed and as a sequel, the order and decretal order made in IA.No.732 of 2021 dated 23.10.2021 in O.S.No.206 of 2019 on the file of the Additional District Munsif Court at Alandur stands set aside. No costs. Consequently, connected miscellaneous petition is closed.

30-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The learned Additional District Munsif Court,
Alandur.



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K.KUMARESH BABU, J.

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