NC: 2023:KHC:34548
WP No. 16992 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE S.G.PANDIT

WRIT PETITION NO. 16992 OF 2023 (GM-CPC)

BETWEEN:

PALANISWAMY, AGED ABOUT 65 YEARS,
S/O A RAMASWAMY,
REPRESENTED BY HIS GPA HOLDER,
MURUGAN CHANDRASHEKAR,
AGED ABOUT 36 YEARS,
S/O. CHANDRASHEKAR,
R/AT NO.123,
VIJAYA LAKSHMI COLONY,
NEAR MANTRI ASTRA APARTMENT,
HENNUR BANDE, KALYANANAGAR POST,
BANGALORE – 43.

…PETITIONER

(BY SRI. MANOHAR N., ADVOCATE)

Digitally signed by
A K CHANDRIKA
Location: High
Court of Karnataka

AND:

1. M. RAGHU RAMAIAH,
   S/O M. CHANDRAIAH,
   AGED ABOUT 62 YEARS,
   R/OF 487/31/11/1, HENNUR CROSS,
   ANNAPURNESHWARI LAYOUT,
   D MART OPP.,
   HENNUR BAGALUR MAIN ROAD,
   BENGALURU – 560 043.

2. N. MARIMUTTU,
   AGED ABOUT 60 YEARS,

S/O LATE A NALLASWAMY,
NO.62/A, HENNUR BANDE,
KALYANA NAGAR,
NALLASWAMY LAYOUT,
OPP. MANTRI ASTRA APARTMENTS,
BENGALURU - 43.

3. D.M.V.RAJA,
AGED ABOUT 55 YEARS,
S/O D. MUNIYAPPA,
R/AT NO.11, SUBBAIAYAPALYA,
M S NAGAR POST,
BANGALORE - 33.

4. D.MUNI MOHAN,
AGED ABOUT 53 YEARS,
S/O D. MUNIYAPPA,
R/AT NO.11, SUBBAIAYAPALYA,
MS NAGAR POST,
BANGLAORE - 33.

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 21.03.2023 PASSED IN IA NO.III IN O.S.NO.4983/2020 ON THE FILE OF THE PRL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE, ANNEXURE – D AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner-plaintiff in O.S.No.4983/2020, is before this Court, aggrieved by the rejection of I.A.No.3 filed under Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 (for short 'CPC') to implead respondent No.1 herein as proposed defendant No.17 to the suit.

2. Heard Sri. N.Manohar, learned counsel for the petitioner-plaintiff and perused the writ petition papers.

3. Learned counsel for the petitioner-plaintiff would submit that the proposed defendant No.17, respondent No.1 herein is necessary and proper party to the suit. Learned counsel further submits that at no point of time, the petitioner-plaintiff sold the suit schedule property and documents are created and fabricated in respect of the suit schedule property. Further, he submits that without there being any right, title and interest, the proposed defendant is constructing in the suit schedule properties. Learned counsel would submit that on enquiry, it has come to know that proposed-defendant No.17 has purchased the property from one A.Narasimhalu under sale deed dated 17.01.2019. It is also noticed that the said

A.Narasimhalu purchased the property from one Sri. George, who has purchased the property from respondent No.2-defendant No.1 in the suit. Learned counsel for the petitioner submits that the trial Court committed an error in dismissing I.A.No.3 without appreciating the documents and contention of the petitioner-plaintiff. Since the proposed defendant is one of the alleged purchaser, he would be necessary and proper party to the suit. Learned counsel would further submit that, if the proposed defendant is not impleaded, the plaintiff would loose his share in the suit schedule property. Thus, he prays for allowing the writ petition and also to allow I.A.No.3 filed for impleading proposed defendant No.17 in the suit.

4. Having heard the learned counsel for the petitioner and on perusal of the writ petition papers, I am of the view that the petitioner-plaintiff has not made out any ground to interfere with the impugned order. Moreover, impugned order is neither perverse nor suffers from any irregularity so as to interfere.

5. Order 1 Rule 10(2) of CPC, permits adding of any person at any stage of the proceedings, if the Court is of the

opinion that presence of the said person would be necessary to settle all the dispute between the parties.

6. The suit is one for partition and permanent injunction. A perusal of the impugned order at Para-8 would indicate that under registered sale deed dated 18.03.1994, the petitioner-plaintiff along with defendant Nos.1 to 3 had sold the property to one Sri. George. The said George in turn under sale deed dated 11.01.1999 had sold the property to one Sri. A.Narasimhalu. The said A.Narasimhalu under registered sale deed dated 17.01.2019 had sold the property to one M.Raghuramaiah, proposed defendant No.17. The Sale of the property is prior to filing of the suit. In a suit for partition, the proposed defendant would not be a necessary and proper party. If the petitioner has any grievance against the proposed defendant, it is open for the petitioner-plaintiff to avail such other remedy available in law.

With the above, writ petition stands dismissed.

SD/-
JUDGE

SMJ