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RFA NO. 1294/2022 (SP)

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[K RAGHAVA REDDY AND ASSOCIATES VS. PEOPLE CHARITY
FUND AND ANOTHER]

18.08.2026

(VIDEO CONFERENCING / PHYSICAL HEARING)

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORDER ON I.A.NOS.1/2024 AND 3/2023

Heard on I.A.Nos.1/2024 and 3/2023.

2. I.A.No.1/2024 is filed under Order I Rule 10(2) read with Section 151 of CPC to implead the applicants, who are daughter and grand children of late Sri. V.Ramalingam Mudaliar and I.A.No.3/2023 is filed under Order I Rule 10(2) read with Section 151 of CPC to implead the applicants, who are grand children of late Sri. V.Ramalingam Mudaliar.

3. The Regular First Appeal is filed by the appellant/plaintiff calling in question the order dated 14.07.2022 passed on I.A.No.3 in O.S.No.7566/2016 by



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the Court of V Additional City Civil Judge at Bengaluru City (CCH-13), whereby the application filed under Order VII Rule 11(a) read with Section 9 and 151 of CPC for seeking rejection of the plaint is allowed and consequently, the plaint is rejected.

4. The appellant/plaintiff has filed suit for specific performance in O.S.No.7566/2016 against the defendants/respondents – Trust. The plaintiff has stated that there was an agreement of sale executed between the plaintiff and respondent No.1 – Trust on 13.06.1984. When the defendant – Trust has not come forward to execute registered sale deed, the appellant/plaintiff has filed suit for specific performance of contract. In the said suit, the defendants have filed application under Order VII Rule 11(a) read with Section 9 and 151 of CPC for rejection of the plaint. The Trial Court has allowed the said application and rejected the plaint. Being aggrieved by the order of rejection of the plaint, the appellant/plaintiff has preferred the appeal in R.F.A.No.1294/2022.



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5. One Sri. V.Ramalingam Mudaliar was the owner of the several properties and one among them is the suit schedule property. Under the Will dated 10.09.1942, he bequeathed the property in favour of respondent No.1-Trust. The appellant and Respondent No.1 has entered into an agreement of sale dated 13.06.1984 for total sale consideration of Rs.10.00 lakhs and the appellant has paid a sum of Rs.2.00 lakhs on the date of agreement and balance to be paid at the time of registration of sale deed and also the appellant took possession over the property. The respondent No.1-Trust had not executed the registration of sale deed. Therefore, the appellant has filed suit in O.S. No.2495/1987 for specific performance of the agreement of sale and the said suit was decreed on 21.02.1997. Against which, respondent No.1 - Trust challenged the judgment and decree before this Court in R.F.A. No.306/1997 on various grounds. In the said appeal, the first respondent had sought leave of the Court to raise an issue regarding non-registration of appellant-



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Firm and this Court has framed two additional issues regarding registration of the appellant-Firm and remanded the matter to the trial Court to record evidence. After remand, the trial Court held in O.S. No.2495/1987 that the plaintiff-Firm was not registered under the provisions of the Partnership Act, 1932 on the date of institution of the suit. Thereafter, the first appeal in RFA No.306/1997 was allowed on 13.06.2008 on technical grounds of a purported formal defect of non-registration of the plaintiff-Firm and the appeal was not allowed on the merits involved in the case. Thereafter, the appellant-Firm was registered under the provisions of the Partnership Act, 1932 during pendency of O.S. No.2495/1987.

6. In the meanwhile, the judgment and decree passed in RFA No.306/1997 dated 13.06.2008 was challenged before the Hon'ble Apex Court in Civil Appeal No.5122/2009 and the Hon'ble Supreme Court has rejected the appeal on the technical ground that the appellant-Firm was not registered under the Partnership



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Act but the Hon'ble Supreme Court has not passed order on merits of the case. Thereafter, the appellant-Firm has filed another suit in OS No.7566/2016 on 26.10.2016 for Specific Performance of the agreement after getting registration of the partnership firm.

7. The respondent No.1 (defendant No.1) entered appearance and filed written statement and also filed I.A.No.3 under Order VII Rule 11(a) of CPC seeking rejection of the plaint on the ground that there is no cause of action to file the suit and the trial Court has allowed the said application and consequently, rejected the plaint in O.S.No.7566/2016. Being aggrieved by it, the appellant/plaintiff has preferred the instant appeal.

8. During pendency of the appeal both plaintiff/appellant and defendants/respondents have compromised the appeal and accordingly this court has disposed the appeal in RFA.No.1294/2022 on 15/02/2023 and passed decree having settled the appeal. The



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impleading applicants have filed Review Petition in R.P.No.235/2023 before this Court to review the order dated 15.02.2023, by which, compromise was recorded. This Court on 07.02.2024 has allowed the Review Petition and set aside the compromise order dated 15.02.2023 and restored the RFA for hearing.

9. During pendency of the appeal for consideration, the applicants were claiming to be daughter and great grand children of Sri. V.Ramalingam Mudaliar had filed an application – I.A.No.1/2024 and I.A.No.3/2023 under Order I Rule 10(2) read with Section 151 of CPC for impleading themselves in the appeal.

IMPLEADING APPLICATIONS:

10. The applicant No.3 has filed affidavit in support of the application deposing that the compromise entered into between the appellant and respondent No.1 is illegal as the applicants being daughter and great grand children of Sri. V.Ramalingam Mudaliar are interested in



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respondent No.1-Trust and respondent No.1-Trust has acted contrary to the objects of the Trust. Therefore, they desire to come on record in the appeal by filing the impleading applications.

11. Further, has deposed on contention that the descendants of Sri. V.Ramalingam Mudaliar, the author of respondent No.1 – Trust has been a trustee of respondent No.1. The applicants, who are direct descendants of Sri. V.Ramalingam Mudaliar are vitally interested in the affairs of respondent No.1 and are keen that the objects for which

Sri. V.Ramalingam Mudaliar created trust as a public charitable trust are fulfilled. Further, the beneficiaries of Trust are public at large and therefore, the affairs of respondent No.1-Trust need to be conducted to subserve their interest.

12. The trustees of respondent No.1-Trust have attempted to take-over the suit schedule property in question. Therefore, the impleading applicants by claiming



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that they are also having interest over the property, have filed an applications to come on record in the appeal. It is alleged in the applications that the second respondent being a trustee is not interested to safeguard the interest of the Trust. Therefore, the impleading applicants desire to come on record.

13. Further, it is the ground assigned in the application to come on record that respondent No.1-Trust, for which purpose, the Trust is created according to the aspirations of Sri. V.Ramalingam Mudaliar, as per the Will is not fulfilling the objects of the Trust and failed to give service to the society. Therefore, the impleading applicants desire to come on record. Therefore, contended that the impleading applicants are proper and necessary parties in the appeal as their presence in the appeal and in the suit is vital and substantial to adjudicate the suit and appeal effectively and completely. Therefore, it is deposed that the impleading applicants are not only proper parties but also necessary parties. Therefore, on these grounds



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filed the applications for impleading to come on record in the appeal.

OBJECTIONS TO IMPEADING APPLICATIONS BY THE APPELLANT/PLAINTIFF:

14. The appellant has filed detailed statement of objections and vehemently opposed the applications. It is contended that the applications are barred by limitation as the applications are filed after 35 years of commencement of the dispute between the appellant and respondent No.1 - Trust. Further, raised objection that the impleading applications are nothing but an attempt to extort money from the appellant and respondents who has no interest in the assets and properties of respondent No.1-Trust, who were the owners of certain properties which was subject matter of the original suit, out of which, the present appeal arises. Also, raised objection that on previous occasions, the impleading applicants have made futile attempts. Therefore, the application lacks *bona fideness* and they are not necessary and proper parties. The presence of the impleading applicants is not necessary and



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is not vital so as to adjudicate the *lis* involved between the appellant and respondent No.1. It is contended that the impleading applicants are strangers to the Trust as respondent No.1-Trust is different entity and is having full authority and competency to deal with Trust and impleading applicants are no way related to the Trust except being lineal descendants of Sri. V.Ramalingam Mudaliar. Further, contended that the applicants failed to show how their presence would enable the Court to adjudicate the suit completely, effectively and adequately.

15. Further, it is contended that in a suit for specific performance of agreement of sale, the necessary parties to the suit are sellers and purchasers or legal representatives, if any, in case of death of vendor or vendee. No other persons are necessary parties' much less proper parties in a suit for specific performance. Therefore, raised objection that the impleading applications are misconceived one.



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16. Further, raised objection that in a suit for specific performance of agreement, the question to decide is enforceability of contract entered into between the seller and purchaser and in the suit for specific performance of agreement, the strangers who are not parties to the contract shall not have been permitted to come into appeal or suit.

17. Further, raised objection that the plaintiff/appellant is the *dominus litis* and therefore, the plaintiff cannot be forced to add parties against whom the appellant has not asked any relief or do not want to fight with the strangers. The appellant being ready and willing to perform the contract and is accepted by respondent No.1-Trust and when respondent No.1-Trust had not come forward to execute a sale deed, the appellant constrained to file suit for specific performance of contract. Therefore, the impleading applicants neither necessary parties nor proper parties, on these objections, prays to reject the application.



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18. When the earlier suit of the plaintiff was dismissed on technical reasons that the partnership firm was not registered, filed another suit in O.S.No.7566/2016 and the trial Court has rejected the plaint in the said suit by entertaining application filed under Order VII Rule 11(a) of CPC which is assailed in the present appeal. Therefore, considering the nature of dispute between the parties, the entire *lis* is between the appellant and first respondent and the impleading applicants have no in any manner are having interest, except to extract money from the appellant, the applications are filed. It is further submitted that just because the impleading applicants are lineal descendants of Sri. V.Ramalingam Mudaliar cannot be said to have interest and right over the Trust as the Trust is different entity being run by their trustees effectively to fulfill the objects of the Trust. Therefore, the impleading applicants being strangers to the Trust, except lineal descendents of Sri. V.Ramalingam Mudaliar do not have *locus standi* so as to meddling with the Trust and



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therefore, prays to reject the application. When the parties who are the appellant and respondents explored to resolve long standing dispute, have entered into settlement between them, which no way affect the impleading applicants. Therefore, the attempt made by the impleading applicants to come on record in the appeal is nothing but meddling with the affairs of the Trust which is not warranted and therefore, the applications are misconceived one and they are filed only to grab the Trust property. This Court has allowed the Review Petition and set aside the compromise entered into between the appellant and respondents is entirely on different grounds and gives no *locus* to the applicants to implead themselves into the present appeal. Therefore, the attempt is being made by the impleading applicants that at their instance, the Review Petition is allowed and compromise entered into between appellant and respondent No.1 is set-aside and does not give any *locus standi* to the applicants to come on record. Therefore, contended that the entire object of the impleading applicants is nothing but grabbing



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the Trust property. Further, contended that the other associates of the impleading applicants claiming to be the legal heirs of Sri. V.Ramalingam Mudaliar and Gajambal, and purportedly led by one Mr.Namasivayam Seevan and one Mrs. Neelavathi R Anbalagan, alleged to have created a registered trust called "*Ramalingam Gajambal Family Trust*" and the impleading applicants are also on the same line filed the impleading applications and the said Trust had instituted the suit in O.S.No.7348/2011 is nothing but an attempt making to snatch the property of the first respondent–Trust. Therefore, the impleading applications who are plaintiffs in O.S. No.7348/2011 are making attempts just to grab the property of the first respondent–Trust only on the reason that they are lineal descendants of Sri. V.Ramalingam Mudaliar, except this relationship, there is no *locus standi* to the impleading applicants to come on record. Therefore, the attempt made by the impleading applicants to come on record is perverted attempt and having malafide intention just to knock-off the property of the Trust.



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19. Further, raised ground that impleading applicants have suppressed the material facts that the impleading applicants have not even whispered, either in the application or in the review petition RP.No.235/2023 regarding filing of suit in O.S.No.7348/2011 by other siblings of impleading applicants and suppressing this fact is vital. Therefore, the impleading applicants have not appeared before the Court with clean hands and hence, the applications are liable to be rejected. The said O.S.No.7348/2011 was dismissed as having not paid the sufficient Court fees and this fact is suppressed. Therefore, on this suppressing material fact, the impleading applicants are not entitled to come on record.

20. Further, the appellant has denied the each paragraphs of the applications as not admitted. Therefore, by filing the detailed statement of objections, the appellant prays to dismiss the application.



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**STATEMENT OF OBJECTION BY RESPONDENT NO.1/
DEFENDANT NO.1:**

21. Respondent No.1 has filed detailed statement of objections along with some documents. The respondent No.1 has objection that the impleading applications are not maintainable and are misconceived one. Further, raised objection that the impleading applicants are not necessary and proper parties. The impelading applicants are not parties to the agreement of sale in respect of the suit property and they do not have any right, title and interest over the property. The agreement of sale is between the appellant and respondents and there is no consensus ad-idem neither between the appellant and the applicants, nor between the respondents and applicants and therefore, the applications are liable to be rejected.

22. The respondent No.1-Trust alone is the owner of the property and had every right to deal with it and at some point of time, respondent No.1-Trust was having no income to maintain the Trust. Therefore, the then Trustees agreed to sell the said property to the appellant by



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executing an agreement of sale in the year 1984, with the tenants in occupation.

23. Further, raised objection that affidavit filed by the deponent does not disclose the locus of the applicants. Considering the relationship between the applicants who are belonging to the same family have filed the applications for grabbing the Trust property and therefore, the applicants do not have any *bona fideness* in filing the applications and thus, they are misconceived one.

24. Further, raised objection that if any person seeks impleadment that person shall have valid right, but the impleading applicants do not have any right, interest and title over the property of the Trust and impleading applicants have suppressed the material fact that their assertion of right has already been determined against them in a previous round of litigation and has attained finality. Also, the Will executed by Sri. V.Ramalingam Mudaliar is proved to be valid. Therefore, the bequeathal of property made by Sri. V.Ramalingam Mudaliar in favour



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of respondent No.1-Trust is valid and now the applicants filed impleading applications are trying to knock off the Trust property. Therefore, the impleading applications are suffering from suppression of vital material facts.

25. Further, raised objection that whatever orders obtained by impleading applicants previously are vitiated by playing fraud and respondent No.1 though a party to the litigation, underwent a change of guard in that the then Managing Trustee fell ill and subsequently passed away. His daughter, who continued managing the respondent No.1-Trust was not aware of these facts, but later on came across these documents, which conclusively demonstrate that the impleading applicants cannot claim any further rights. Further, raised objection that, the issues raised by the impleading applicants are hit by *res judicata* and/or by issue estoppels. Therefore, the impleading applicants do not have any *locus standi* or right to seek impleadment.



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26. It is stated that respondent No.1 came in to existence through Will dated 10.09.1942. However, the first applicant (now the deceased) had contended that the owner died intestate and created a private family trust (namely "Ramalingam Gajambal Family Trust") on 16.03.2011 to retrieve these properties for their own benefit. The address of all the applicants as well as the registered address of said "Ramalingam Gajambal Family Trust" is one and the same. Therefore, the applicants have suppressed the creation of respondent No.1-Trust under the Will but are claiming false claim that they have their own Trust in the year 2011. Therefore, the attempt of the impleading applicants is that on the guise of maintaining Trust properly, but it is only a show off to the public, but internally the object of the impleading applicants is just to knock-off the property of respondent No.1-Trust. Further, the impleading applicants and their other siblings have filed the suit in O.S.No.7348/2011 seeking to declare that respondent No.1-Trust was not validly created Trust and the property in question is item No.6 in the said suit.



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Therefore, the impleading applicants are making an attempt just to knock-off the property of respondent No.1 – Trust.

27. Further, raised objection that the impleading applicants averred that respondent No.1 was a private Trust, but now contending that it is a Public Trust. Therefore, it is amounting to suppression of facts and playing fraud on the Court.

28. Further, submitted that, the suit in O.S. No.7348/2011 was dismissed for default for want of payment of court fee. The applicants have challenged that order in W.P.No.5779/2012 and this Court in the order dated 02.03.2012, observed that the respondent No.1-Trust came into existence in the year 1943 and the matter has attained finality as per the decision of the Hon'ble Supreme Court in the case of *R. Viswanathan vs Rukn-Ul-Mulk Syed Abdul Wajid*¹. This Court had observed that the children of Sri.V.Ramalingam Mudaliar had already

¹ AIR 1963 SC 1



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challenged the Will and the contents of the impleading applicants were rejected and the Will was upheld by the Hon'ble Supreme Court. Despite this, the impleading applicants are once again attempting backdoor entry to litigate issues already settled by the highest Court of the land. Against which, the impleading applicants have preferred the appeal before the Hon'ble Supreme Court in SLP(Civil) No.13687/2012, which was dismissed on 10.05.2012. All these facts are suppressed by the impleading applicants in the applications. Therefore, this suppression is nothing but playing fraud by misleading the Court.

29. Respondent No.1- Trust is original Trust was governed by its Rules and Regulations and same was founded by Sri.V.Ramalingam Mudaliar and time and again, the Trust had re-constitutions, additional trustees were added and Trust has been running with Rules and Regulations stipulated under the bye-laws.



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30. Sri. V. Ramlingam Mudaliar died on 10.03.2019 and litigations were not made aware to the present Trustees of respondent No.1 - Trust. Then the Trustees could secure the documents pertaining to the litigations and documents created by the applicants, as such the same could not be produced in Review Petition in R.P. No.235/2023. On receiving the documents, the Trustees immediately produced them before the Hon'ble Supreme Court and the same came to be considered by the Hon'ble Supreme Court and reserved liberty to contest.

31. Respondent No.1-Trust had executed the registered sale deed in favour of the appellant for 6,123 sq. ft. and sold the balance 10,318 sq. ft. to third parties vide sale deed dated 16.02.2023. As the property is sold and third parties are in physical possession, the presence of the applicants is of no consequence and nothing subsists in the present appeal. Moreover, the property has already been in possession of third parties, taxes are paid by the respective owners and khathas of respective



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portions stand in the name of purchasers. Therefore, the applications filed for impleading is nothing but misconceived and is also suppressed material facts of litigations and has attained finality over the Will and therefore, the instant application filed is nothing but to knock-off the respondent No.1-Trust property.

32. Therefore, on these said objections, prays to dismiss the applications filed for impleading - I.A.Nos.1/2024 & 3/2023.

SUBMISSION OF LEARNED COUNSEL FOR IMPEADING APPLICANTS:

33. Sri. K.G.Raghavan, learned Senior Counsel appearing for the impleading applicants vehemently submitted that the impleading applicants are necessary and proper parties in the appeal. On earlier occasion, upon Review Petition in R.P.No.235/2023 filed by the impleading applicants, the order on the compromise petition was set aside on the reason that in the compromise petition 10,000 sq. ft. has been sold by the Trust on the very same



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day of execution of sale deed in favour of the third parties. Therefore, the acts of respondent No.1-Trust are contrary to the object of the Trust for what purpose which was created by Sri. V.Ramalingam Mudaliar. Therefore, the impleading applicants are necessary and proper parties. The said order dated 07.02.2024 was challenged before the Hon'ble Supreme Court in SLP (Civil) Diary No.36940/2025 and the order passed by this Court is confirmed. Therefore, this Court in the order in R.P. No.235/2023 has observed that the contention urged by respondent Nos.1 and 2 were declined. In R.P. No.235/2023, the contention of the impleading applicants that the impleading applicant No.1 is daughter of Sri. V.Ramalingam Mudaliar and impleading applicants Nos.2 and 3 are the great grandsons of Sri. V.Ramanlingam Mudaliar and they are the persons interested in the Trust. When the Trust is acting contrary to the object of the Trust and were transferring the properties of the Trust, they were misappropriating the funds of the Trust. Therefore, the petitioner Nos.2 and 3 have filed suit in



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O.S.No.7348/2011 seeking removal of the Trustees and appointment of new Trustees. They have also filed Misc.Petition under Section 92 of CPC seeking leave of the Court on 04.07.2022 and when the said suit was pending, the plaintiff and defendants have filed compromise petition in RFA No.1294/2022, contrary to the object of the Trust and therefore, this is appreciated by this Court in the above said R.P. No.235/2023.

34. Further, it is submitted that this Court in the above said Review Petition No.235/2023 has observed that the impleading applicants are necessary parties are being aggrieved by the order passed by this Court in R.F.A.No.1294/2022 and therefore, the impleading applications are maintainable. Therefore, the contention taken by the respondents herein i.e., plaintiff and defendants/appellant and respondent Nos.1 and 2 were already considered and it is held that these impleading applicants are proved to be necessary and proper parties to come on record in the appeal. Further, it is submitted



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that there are already six cases pending between the parties and in view of the pendency of the cases, they cannot claim the Trust property. Therefore, whatever contention raised by the plaintiff and defendants/appellant and respondent Nos.1 and 2 were already considered and found to be the impleading applicants are necessary and proper parties. Therefore, they are entitled to come on record in the appeal.

35. Furthermore, the appellant herein filed Review Petition R.P. No.226/2024, and the respondents filed Review Petition R.P. No. 232/2024, seeking review of the order passed in R.P. No. 235/2023, which was also dismissed on its merits. Therefore, the question of whether the impleading applicants are necessary and proper parties to the appeal has been conclusively put at rest. Therefore, submitted that there is no merit found in the objections raised by the appellant and respondents and the order passed in R.P.Nos.226/2024 and 232/2024 has been taken to the Hon'ble Supreme Court. Therefore,



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the order regarding entertaining the impleading applicants in Review Petition and by allowing the Review Petition in R.P.No.235/2023 has attained finality. Therefore, the impleading applicants are found to be necessary and proper parties. Hence, prays to allow the application – I.A.No.1/2024 and order for coming on record in the appeal.

36. In support of the arguments, learned Senior Counsel Sri.K.G.Raghavan places reliance on the following judgments:

1. The judgment of this Court in the case of ***L.Puttaiah and others vs. Annaipa and others***².
2. The judgment of the Hon'ble Supreme Court in the case of ***Arunima Baruah vs. Union of India and Others***³.
3. The judgment of the Hon'ble Supreme Court in the case of ***S.J.S.Business Enterprises (P) Ltd. Vs. State of Bihar and others***⁴

**SUBMISSION OF LEARNED SENIOR COUNSEL
FOR RESPONDENT NO.1-TRUST:**

² ILR 2003 KAR 3437

³ (2007) 6 SCC 120

⁴ (2004) 7 SCC 166



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37. Sri. C.K.Nandakumar, learned Senior counsel appearing on behalf of the respondent No.1-Trust has vehemently submitted that the impleading applicants are not necessary parties and even not proper parties. He has submitted that in a suit filed for specific performance of contract, the necessary parties are the owner, who is willing to execute the registered sale deed in favour of purchaser/plaintiff, who is willing to purchase the property. Except these, the other parties who are not concerned with the property are not at all necessary parties and even much less not proper parties. In a suit for specific performance of contract, the only necessary parties are the owner (vendor), the purchaser, or their legal representatives and authorized agents. If any party is not concerned with the property is not at all necessary parties. In this context, he has argued that the impleading applicants are neither the owner of the property nor purchaser of the property. But, they are strangers to the property. Therefore, they are not necessary parties. The



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only claim made by the impleading applicants is that Sri. V.Ramalingam Mudaliar being father of impleading applicant No.1 and great grandfather of impleading applicant Nos.2 and 3 has donated the property to the respondent No.1-Trust by creation of Trust as per the Will. Therefore, when this being the fact that respondent No.1-Trust has become owner of the suit property, has every right to deal with the property. Therefore, the impleading applicants are not necessary and proper parties. It is further submitted that the attempt is being made by the impleading applicants to come on record in the appeal, is nothing but futile exercise as they are trying to make connection with the property being legal heirs of Sri. V.Ramalingam Mudaliar, but the property was given to respondent No.1-Trust and thus neither Sri. V.Ramalingam Mudaliar nor impleading applicants are having any concerned with the suit property as their ownership is parted soon after creation of Trust, that too at the wishes of Sri. V.Ramalingam Mudaliar under the Will executed by



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him. Therefore, the impleading applicants are not necessary parties.

38. Further, it is submitted that the impleading applicants have suppressed the facts in the application and by suppressing the said facts on an earlier occasion, got the order of setting aside the order dated 15.02.2023 passed in RFA No.1294/2022. Thus, the impleading applicants have filed suit in O.S.No.7348/2011 for the relief of seeking declaration to declare respondent No.1-Trust is not validly and legally created under the Will dated 10.09.1942, further prays relief that alternatively, if the Hon'ble Court held that Trust is created, then the respondent No.1-Trust has completely failed, as the objects of the Trust is not fulfilled and also sought declaration that the sale of properties at item Nos.7, 9 and 10 stated in the suit are void *ab initio* but the said suit was dismissed as withdrawn on 12.07.2012. Therefore, on an earlier occasion, the impleading applicants have filed the suit in O.S. No.7348/2011 but were unsuccessful in their



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suit. It is further submitted that upon the issue of payment of court fee on the valuation of the suit property in the said suit and issue went up to this Court in filing W.P. No.5779/2012 and this Court by order dated 02.03.2012 has dismissed the said Writ Petition and thereafter, the impleading applicants have withdrawn the suit and accordingly, the said suit dismissed as withdrawn on 12.07.2012. These facts are not stated in the impleading applications and not deposed in the affidavit filed by the impleading applicant No.3. Therefore, the impleading applications suffer from suppression of facts as these facts are not averred in the application and in the affidavit. If the above facts had been stated then it would have given fair and correct picture to this Court before passing order on 15.02.2023. Therefore, by suppression of facts, the impleading applicants have obtained order on 07.02.2024 by setting aside the order dated 15.02.2023 passed in RFA No.1294/2022. Therefore, submitted that the impleading applications deserves to be dismissed.



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39. Further, it is submitted that the attempt made by the impleading applicants to come on record is wholly on the basis that respondent No.1-Trust is created on the Will executed by Sri. V.Ramalingam Mudaliar and his property was assigned to respondent No.1-Trust. Therefore, only on the ground that the impleading applicants are legal heirs of Sri. V.Ramalingam are asserting their claim to come on record in the appeal. Even the impleading applicants have challenged the said Will executed by Sri. V. Ramalingam Mudaliar, but execution of Will dated 10.09.1942 is confirmed even in the legal battles went up to the Hon'ble Supreme Court. Therefore, when respondent No.1-Trust is created on the will and wish of Sri.V.Ramalingam Mudaliar and said Sri. V. Ramalingam Mudaliar had bequeathed the property in favour of respondent No.1-Trust and the said Will was acted upon and respondent No.1-Trust is functioning. Therefore, respondent No.1-Trust has every right to deal with the property to run the Trust with its objects. Therefore, in this regard, the impleading applicants being



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strangers to the Trust and property cannot claim their purported right over the suit property. Therefore, submitted that the impleading applications filed by the applicants are misconceived one.

40. Further, it is submitted that the impleading applicants have suppressed the material facts that earlier the impleading applicants have filed suit in O.S.No.7348/2011 and which was dismissed for non-payment of court fee. When the impleading applicants were unsuccessful in the said suit, the present impleading application filed is nothing but an futile attempt just to knock-off the property, which was bequeathed in favour of respondent No.1 – Trust. It is not disputed that by virtue of Will executed by Sri. V.Ramalingam Mudaliar in the year 1942, respondent No.1-Trust was created and one of the property of Sri. V.Ramalingam Mudaliar i.e., the suit schedule property was bequeathed in favour of the Trust for charitable purposes. The only connection is being attempted by the impleading applicants is that V.Ramalingam Mudaliar is their father and great



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grandfather and originally the suit property was belonging to him. Now, the impleading applicants are attempting to knock – off the property of respondent No.1-Trust by asserting a relationship with V.Ramalingam Mudaliar. Therefore, the impleading applications are liable to be rejected as they do not disclose filing of earlier suit in O.S. No.7348/2011.

41. Further, it is submitted that the intention of the impleading applicants is very clear in suppressing filing of O.S. No.7348/2011 that in the plaint in O.S. No.7348/2011 at paragraph No.5, the impleading applicants being the plaintiffs in the suit. The impleading applicants herein, who were plaintiffs in the said suit have taken false plea that V.Ramalingam Mudaliar did not create any Trust under the Will dated 10.09.1942, but in fact, when impleading applicants and other legal heirs of V.Ramalingam Mudaliar have challenged the said Will dated 10.09.1942, the Will is proved to be validly executed and it went up to the Hon'ble Supreme Court upholding the execution of Will. Therefore, when this being



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the finding on the Will, a false pleading was taken in suit in O.S.No.7348/2011 asserting that V.Ramalingam Mudaliar has not created any Trust under the said Will. But in the said Will, which is also probated that Respondent No.1-Trust is created under the said Will and suit schedule property is bequeathed in favour of respondent No.1-Trust for the welfare of the society. Therefore, the impleading applicants are guilty of suppression of facts that is why they have not disclosed this factum in the impleading applications. Therefore, the impleading applications are to be rejected.

42. This factum of facts involved in the case was not brought to the notice of this Court while hearing during Review Petition in R.P.No.235/2023 and R.P.No.226/2024 dated 04.04.2025. Therefore, by misleading the Court, they obtained the order.

43. Further, the impleading applicants and other legal heirs of Sri. V.Ramalingam Mudaliar have created deed of Trust on 16.03.2011 only for the purpose of



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getting back the public properties for private family distribution and not for any other purpose. In the said Trust deed dated 16.03.2011, the objects of the Trust are extracted as follows:

OBJECTS OF THE TRUST: The objects of the trust shall be

- a. To identify the properties left behind late V.Ramalingam Mudaliar, which are not bequeathed in favour of his legal heirs under the last will of Ramalingam Mudaliar dated 10/9/1942 and to identify the properties left behind by said Gajambal.*
- b. To retrieve such properties, to settle the dispute/s, to develop such properties, to market such properties either by sale or lease.*
- c. To receive sale consideration, compensation, lease-amount, rentals, and other receipts towards from such properties.*
- d. To distribute the proceeds derived from the aforesaid activities, after deducting all the expenses incurred including expenses incurred towards administration of the trust, loans and other outgoing, amongst the legal heirs of Late V. Ramalingam Mudaliar and Gajambal in accordance with the provisions of Hindu Succession Act. While doing so it shall be ensured that each branch of V.Ramalingam Mudaliar gets equal share.*

ACHIEVING OBJECTS OF THE TRUST:



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- a. Gathering information and documents pertaining to the properties of Late Ramalingam Mudaliar.*
- b. Informing other trustees about any developments in the administration and management of the Trust.*
- c. Finding suitable person for sale, development or otherwise disposal of the properties and to negotiate for the aforesaid purposes.*
- d. Enter into arguments, compromise and execute any conveyances or compromise deed alongwith Managing trustees on behalf of the trust with the approval of the majority board of Trustees.*

44. Therefore, from the above, it is emerged that the intention of the impleading applicants is very clear that they are making attempt to get back the property, which was given in favour respondent No.1-Trust. Further, about this Trust deed dated 16.03.2011, the impleading applicants have not at all whispered anything in their applications and affidavit filed for impleadment. Therefore, at every stage, the impleading applicants are suppressing the material facts before the Court.

45. It is further submitted that the impleading applicants have filed O.S.No.7348/2011 and one of the



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prayer is that to declare the first defendant-Trust is not validly and legally created under the Will dated 10.09.1942. But regarding the said genuinity of the Will, the issue is resolved by the Hon'ble Supreme Court by upholding the execution of the said Will dated 10.09.1942. Therefore, this prayer made in the suit in O.S.No.7348/2011 is contrary to the facts proved and settled. In O.S.No.7348/2011 and in R.P.No.No.235/2023, the impleading applicants have never stated anything regarding upholding of the Will dated 10.09.1942. By suppressing these material facts, they have obtained an order by misleading the Court. Therefore, the Trust is created on 16.03.2011 only for the purpose of just to knock-off the properties, which were given by V.Ramalingam Mudaliar to respondent No.1 – Trust and to the society because of the fact that the alleged property value has been escalated over the time. Therefore, when all the previous attempts by the impleading applicants were failed, then the impleading applications are new version making another futile attempt to knock-off the



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property of respondent No.1 – Trust. Therefore, submitted that the impleading applications are liable to be dismissed. Therefore, the impleading applicants are absolutely not necessary and even not proper parties to the appeal. Therefore, on grounds that the impleading applicants are not at all necessary and property parties and also they have suppressed material facts, the impleading applications are liable to be rejected. In support of his arguments, he places reliance on the following judgments:

1. *The judgment of the Hon'ble Supreme Court in the case of **Viswanathan and others vs. Gajambal Anmal & anothers.***⁵
2. *The judgment of the Hon'ble Supreme Court in the case of **Chairman Madappa vs. M.N.Mahanthadevaru and others.***⁶
3. *The judgment of the Hon'ble Supreme Court in the case of **K.D.Sharma vs. Steel Authority of India Limited and others.***⁷

⁵ 1962 SCC OnLine SC 112

⁶ AIR 1966 SC 878

⁷ (2008) 12 SCC 481



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4. *The judgment of the Hon'ble Supreme Court in the case of **Dalip Singh vs. State of Uttar Pradesh and others.**⁸*
5. *The judgment of the Hon'ble Supreme Court in the case of **Gurmit Singh Bhatia vs. Kiran Kant Robinson and others.**⁹*

SUBMISSION OF LEARNED COUNSEL FOR THE PLAINTIFF /APPELLANT

46. Sri.Devaiah I.S., learned counsel appearing on behalf of the appellants submitted that the appeal is arising from the suit for specific performance of contract filed by the appellant/plaintiff based on the agreement of sale dated 13.06.1984 and the appellant/plaintiff have paid entire sale consideration amount and is already in possession over the property. On initial occasion, the appellant had succeeded on merits in the suit in O.S.No.2495/1987 instituted before the Court of City Civil Judge, Bengaluru. However, it was non-suited in appeal on account of technicality because the appellant-Firm was unregistered at that time. Therefore, submitted that the

⁸ (2010) 2 SCC 114

⁹ (2020) 13 SCC 773



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appellant has succeeded in the suit for specific performance on merits. Now the impleading applicants seek to enlarge the limited contractual dispute into a collateral enquiry concerning the internal affairs of the respondent No.1-Trust and claiming family claims. Therefore, such attempt of making enlargement is not permissible.

47. Further, submitted that the suit is for specific performance of contract simpliciter. It is between the plaintiff and defendants to adjudicate in the suit and impleading applicants are not necessary parties and even not proper parties. Therefore, when impleading applicants are strangers to the suit property, they are not necessary parties in the suit.

48. Further, submitted that the impleading applications militates against the Order II Rule 6 of CPC regarding misjoinder of cause of action. Further, impleading applicants are not party to the agreement of sale dated 13.06.1984. The impleading applicants are not



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at all concerned to the suit property. When V.Ramalingam Mudaliar had executed a Will dated 10.09.1942 and created respondent No.1 – Trust and bequeathed suit property in favour of respondent No.1-Trust and further the said Will has attained finality of its execution in genuinity, the impleading applicants are not at all concerned with the suit property. Therefore, the impleading applicants are strangers hence neither necessary parties not proper parties. Further, argued in line with the learned Senior Counsel Sri. C.K.Nandakumar that the impleading applicants are grossly suffering from suppression of material facts and the impleading applicants have not approached the Court with clean hands. Further, submitted that the plaintiff is *dominus litis* and he desired to contest with the defendants but not with any other third party much less the impleading applicants. If any of the rights of other third parties are involved then they can be impleaded in the suit. But here the dispute is purely between the plaintiff and defendants and impleading applicants being third parties are in any way



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not affected of any adjudication and resulting in the appeal. Therefore, the impleading applications filed are just to harass the appellant/plaintiffs. Therefore, on all these reasons, prays to dismiss the impleading applications. In support of his arguments, he places reliance on the following judgments:

1. *The judgment of the Hon'ble Supreme Court in the case of **Kasturi vs. Iyyamperumal and others.***¹⁰
2. *The judgment of the Hon'ble Supreme Court in the case of **Anil Kumar Singh vs. Shivnath Mishra alias Gadasa Guru.***¹¹
3. *The judgment of the Hon'ble Supreme Court in the case of **Dalip Singh vs. State of Uttar Pradesh and others.***¹²
4. *The judgment of the Hon'ble Supreme Court in the case of **Vishnu Vardhan alias Vishnu Pradhan vs. State of Uttar Pradesh and others.***¹³

¹⁰ (2005) 6 SCC 733

¹¹ (1995) 3 SCC 147

¹² 2010 (2) SCC 114

¹³ 2025 SCC Online SC 1501



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49. Upon hearing the rival submissions made by the parties, the following points would arise for consideration:

1. Whether, under the facts and circumstance involved in the case, the impleading applicants prove that they are necessary and proper parties to implead in the appeal, when the suit is for specific performance of contract simpliciter between the plaintiff and defendants?
2. Whether, under the facts and circumstances involved in the case, the impleading applicants prove that without they are being impleaded as parties in the appeal, the appeal cannot be disposed of effectively?
3. Whether, under the facts and circumstances involved in the case, the plaintiff and defendants demonstrate that the impleading applicants are not necessary and proper parties?
4. Whether, under the facts and circumstances involved in the case, the impleading applicants are guilty of suppression of facts in the case while coming on record as parties in the appeal?
5. Whether, under the facts and circumstances involved in the case, the impleading applications are suffering from suppression of material facts?



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6. What order?

50. The plaintiff has filed suit in O.S.No.7566/2016 for specific performance of contract. Admittedly, defendant No.1 is the owner of the suit schedule property and defendant No.2 is one of the trustees. Plaintiff is an agreement holder of sale agreement dated 13.06.1984 entered into between the plaintiff and defendants for sale consideration amount. The plaintiff has paid substantial amount to the defendants under the above said agreement of sale. All these facts are not disputed. On earlier occasion, the suit in O.S.No.2495/1987 instituted by plaintiff against the defendants for relief of decree for specific performance of contract is decreed in favour of plaintiff. The said suit was decided on merits holding that the plaintiff is entitled for decree for specific performance of contract. The said decree passed in O.S.No.2495/1987 is challenged in Regular First Appeal No.306/1997 before this Court and this Court has gone into technicality that the plaintiff - Firm was not registered one and therefore,



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was set-aside the order and remanded to the trial Court. Thereafter, this Court has also set-aside the findings in favour of plaintiff regarding entitlement of relief of decree of specific performance of contract. Therefore, the plaintiff has succeeded in the suit for specific performance of contract on its merits. All these facts are not in dispute. The above said order passed in RFA No.306/1997 was challenged before the Hon'ble Supreme Court in Civil Appeal No.5122/2009 and the Hon'ble Supreme Court has rejected the appeal solely on the above mentioned technical grounds and not on merits of the facts of the case. Thereafter, the plaintiff/appellant got registered the partnership firm and filed suit in O.S.No.7566/2016 (present suit) seeking decree for specific performance of contract. Defendant No.1 had filed application under Order VII Rule 11(a) of CPC for rejection of the plaint on the ground that there is no cause of action in the suit and the trial Court by the order dated 14.07.2022 has allowed the said I.A.No.3 filed under Order VII Rule 11(a) of CPC and



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rejected the plaint. This order is under challenge in this appeal.

51. In the appeal, there was compromise between the plaintiff and defendants and accordingly this Court has recorded the said compromise and disposed of the appeal on 15.02.2023.

52. Thereafter, the impleading applicants have filed review petition in R.P. No.235/2023 praying to review the order passed in RFA No.1294/2022 dated 15.02.2023 by making various grounds. This Court in the said RP No.235/2023 dated 07.02.2024 has reviewed the judgment and decree dated 15.02.2023 and set aside the said order passed on compromise petition. Then the plaintiff and defendant No.1 has filed review petitions in RP Nos.226/2024 and 232/2024 praying to review the order passed in RP No.235/2023 dated 07.02.2024. But these review petitions were dismissed on 04.04.2025. Against which, SLP (Civil) Diary No.36940/2025 is filed and the said SLP also dismissed. Consequently, it is



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ordered that the first appeal is restored on its original number, to be heard and decided on merits by this Court. It is observed that any findings / observations made by this Court in the impugned order will not influence the High Court in taking fresh decisions on merits of the appeal. Therefore, it is observed that whatever observations/findings are made in RP Nos.226/2024 and 232/2024 are not considered while taking fresh decisions in the appeal on its merits.

53. After remanding the case to this Court by the Hon'ble Supreme Court, the question to be considered in this appeal at this stage is that on I.A.No.1/2024 and I.A.No.3/2023, whether the impleading applicants are necessary and proper parties to the *lis*. In the above said admitted factual background, the applications are to be considered. The suit is filed for specific performance of contract simpliciter. Admittedly, defendant No.1 is the Trust who is owner of the suit property and defendant No.2 is one of the trustees and plaintiff has entered into



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agreement of sale with defendant No.1 on 13.06.1984. It is the case of the plaintiff and defendants that the plaintiff has paid substantial sale consideration amount. On earlier occasion the suit in O.S.No.2495/1987 for specific performance of contract was decreed on 21.02.1997. But the said decree is set aside on the technical issue that appellant/plaintiff - Firm was not registered firm. Therefore, the findings on merits are not disturbed entitling the plaintiff for decree of specific performance. The findings/observations on merits regarding the entitlement of plaintiff for relief of decree of specific performance is not disturbed.

54. Considering the present applications filed for impleading, the impleading applicants are claiming to be daughter and great grand sons of Sri. V.Ramalingam Mudaliar. The impleading applicants are establishing connection to the suit because the suit property, which was bequeathed in favour of defendant No.1 - Trust by way of the Will dated 10.09.1942, originally belonged to



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the V.Ramalingam Mudaliar. Therefore, on this relationship only the applicants have filed this impleading applications. The impelading applicants have challenged the validity of the execution of Will dated 10.09.1942 executed by V.Ramalingam Mudaliar and its validity is upheld by the Hon'ble Supreme Court in the Judgment reported in AIR 1963 SC 1. Therefore, the findings on the Will dated 10.09.1942 executed by V.Ramlingam Mudaliar was upheld and the said issue has attained finality. Therefore, it is also not disputed that by virtue of the said Will dated 10.09.1942 respondent No.1- Trust was created for serving society and also probate was granted.

55. In a suit for specific performance of contract like in the present case, whether the impleading applicants are necessary and proper parties is to be considered. It is the argument canvassed by learned Senior Counsel Sri. K.G.Raghavan that in R.P.No.235/2023, this question is considered that the applicants are necessary and proper parties and same position is reiterated in R.P. Nos.226/2024 and 232/2024. But in the impleading



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applications, the applicants have not stated anything about the earlier suit filed by the impleading applicants in O.S.No.7348/2011. This factum is suppressed in the applications. Therefore, this suppression of facts can be considered on two perspectives; first, whether the impleading applicants are necessary and proper parties in the suit filed for specific performance of contract and second, whether such suppression of facts is material enough to affect the core of the case.

56. The Hon'ble Supreme Court in ***Kasturi's case*** ***stated supra***, held at paragraphs 6, 10, 14, 15, 17 pertaining to deciding the question whether in a suit for specific performance of contract for sale who is the necessary and proper party, as under:

"6. In our view, a bare reading of this provision namely, second part of Order 1 Rule 10 sub-rule (2) of the CPC would clearly show that the necessary parties in a suit for specific performance of a contract for sale are the parties to the contract or if they are dead their legal representatives as also a person who had purchased the contracted property from the



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vendor. In equity as well as in law, the contract constitutes rights and also regulates the liabilities of the parties. A purchaser is a necessary party as he would be affected if he had purchased with notice of the contract, but a person who claims adversely to the claim of a vendor is, however, not a necessary party. From the above, it is now clear that two tests are to be satisfied for determining the question who is a necessary party. Tests are - (1) there must be a right to some relief against such party in respect of the controversies involved in the proceedings (2) no effective decree can be passed in the absence of such party.

10. As noted hereinearlier, two tests are required to be satisfied to determine the question who is a necessary party, let us now consider who is a proper party in a suit for specific performance of a contract for sale. For deciding the question who is a proper party in a suit for specific performance the guiding principle is that the presence of such a party is necessary to adjudicate the controversies involved in the suit for specific performance of the contract for sale. Thus, the question is to be decided keeping in mind the scope of the suit. The question that is to be decided in a suit for specific performance of the contract for sale is to the enforceability of the contract entered into between the parties to the contract. If the person seeking addition is added in such a suit, the scope of the suit for specific performance would be enlarged and it would be practically converted into a suit for title. Therefore,



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for effective adjudication of the controversies involved in the suit, presence of such parties cannot be said to be necessary at all. Lord Chancellor Cottenham in Tasker Vs. Small 1834 (40) English Report 848 made the following observations:

"It is not disputed that, generally, to a bill for a specific performance of a contract for sale, the parties to the contract only are the proper parties; and, when the ground of the jurisdiction of Courts of Equity in suits of that kind is considered it could not properly be otherwise. The Court assumes jurisdiction in such cases, because a Court of law, giving damages only for the non- performance of the contract, in many cases does not afford an adequate remedy. But, in equity, as well as in law, the contract constitutes the right and regulates the liabilities of the parties; and the object of both proceedings is to place the party complaining as nearly as possible in the same situation as the defendant had agreed that he should be placed in. It is obvious that persons, strangers to the contract, and, therefore, neither entitled to the right, nor subject to the liabilities which arise out of it, are as much strangers to a proceeding to enforce the execution of it as they are to a proceeding to recover damages for the breach of it."

[Emphasis supplied]

14. As discussed hereinearlier, whether respondent Nos.1 and 4 to 11 were proper parties or not, the governing principle for deciding the question would be that the presence of respondent Nos.1 and 4 to 11 before the Court would be necessary to enable it effectually and completely to adjudicate upon and settle all the questions involved in the suit. As noted hereinearlier, in a suit for specific performance of a



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contract for sale, the issue to be decided is the enforceability of the contract entered into between the appellant and the respondent Nos.2 and 3 and whether contract was executed by the appellant and the respondent Nos.2 and 3 for sale of the contracted property, whether the plaintiffs were ready and willing to perform their part of the contract and whether the appellant is entitled to a decree for specific performance of a contract for sale against the respondent Nos.2 and 3. It is an admitted position that the respondent Nos.1 and 4 to 11 did not seek their addition in the suit on the strength of the contract in respect of which the suit for specific performance of the contract for sale has been filed. Admittedly, they based their claim on independent title and possession of the contracted property. It is, therefore, obvious as noted hereinafter that in the event, the respondent Nos.1 and 4 to 11 are added or impleaded in the suit, the scope of the suit for specific performance of the contract for sale shall be enlarged from the suit for specific performance to a suit for title and possession which is not permissible in law. In the case of Vijay Pratap & Ors. Vs. Sambhu Saran Sinha & Ors. reported in 1996(10) SCC, 53, this Court had taken the same view which is being taken by us in this judgment as discussed above. This Court in that decision clearly held that to decide the right, title and interest in the suit property of the stranger to the contract is beyond the scope of the suit for specific performance of the contract and the same cannot be turned into a regular title suit. Therefore, in our view, a third party or a stranger to the contract cannot be added so as to convert a suit of one character into a suit of different character. As discussed above, in the



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event any decree is passed against the respondent Nos.2 and 3 and in favour of the appellant for specific performance of the contract for sale in respect of the contracted property, the decree that would be passed in the said suit, obviously, cannot bind the respondent Nos.1 and 4 to 11. It may also be observed that in the event, the appellant obtains a decree for specific performance of the contracted property against the respondent Nos.2 and 3, then, the Court shall direct execution of deed of sale in favour of the appellant in the event respondent Nos.2 and 3 refusing to execute the deed of sale and to obtain possession of the contracted property he has to put the decree in execution. As noted hereinbefore, since the respondent Nos.1 and 4 to 11 were not parties in the suit for specific performance of a contract for sale of the contracted property, a decree passed in such a suit shall not bind them and in that case, the respondent Nos.1 and 4 to 11 would be at liberty either to obstruct execution in order to protect their possession by taking recourse to the relevant provisions of the CPC, if they are available to them, or to file an independent suit for declaration of title and possession against the appellant or respondent No.3. On the other hand, if the decree is passed in favour of the appellant and sale deed is executed, the stranger to the contract being the respondent Nos.1 and 4 to 11 have to be sued for taking possession if they are in possession of the decretal property.

15. That apart, from a plain reading of the expression used in sub-rule (2) Order 1 Rule 10 of the CPC "all the questions involved in the suit" it is abundantly clear that the legislature clearly meant that the



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controversies raised as between the parties to the litigation must be gone into only, that is to say, controversies with regard to the right which is set up and the relief claimed on one side and denied on the other and not the controversies which may arise between the plaintiff/appellant and the defendants inter se or questions between the parties to the suit and a third party. In our view, therefore, the court cannot allow adjudication of collateral matters so as to convert a suit for specific performance of contract for sale into a complicated suit for title between the plaintiff/appellant on one hand and Respondent Nos. 2 & 3 and Respondent Nos. 1 and 4 to 11 on the other. This addition, if allowed, would lead to a complicated litigation by which the trial and decision of serious questions which are totally outside the scope of the suit would have to be gone into. As the decree of a suit for specific performance of the contract for sale, if passed, cannot, at all, affect the right, title and interest of the respondent Nos.1 and 4 to 11 in respect of the contracted property and in view of the detailed discussion made hereinbefore, the respondent Nos.1 and 4 to 11 would not, at all, be necessary to be added in the instant suit for specific performance of the contract for sale.

17. That apart, there is another principle which cannot also be forgotten. The appellant, who has filed the instant suit for specific performance of the contract for sale is dominus litis and cannot be forced to add parties against whom he does not want to fight unless it is a compulsion of the rule of law, as already discussed above. For the reasons aforesaid, we are therefore of the view that respondent Nos.1 and 4 to



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11 are neither necessary parties nor proper parties and therefore they are not entitled to be added as party-defendants in the pending suit for specific performance of the contract for sale."

57. Further, the Hon'ble Supreme Court in the case of **Moreshar Yadaorao Mahajan vs. Vyankatesh Sitaram Bhedi and others**¹⁴ at paragraph Nos.17 and 18 held as under:

17. This Court, in the case of *Mumbai International Airport Private Limited v. Regency Convention Centre and Hotels Private Limited and Others*, has observed thus:

"15. A "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a

¹⁴ Civil Appeal No.5755-5756/2011



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proper party to the suit for specific performance."

18. *It could thus be seen that a "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. It has been held that if a "necessary party" is not impleaded, the suit itself is liable to be dismissed.*

58. Therefore, necessary party is one in whose absence no effective decree could be passed. A proper party is one though whose presence is relevant but in his absence an effective decree could be passed. Therefore, considering these aspects based on the principles of law laid down as above stated, in a suit for specific performance of contract, the *dominus litis* is a plaintiff and defendants. Defendants are owners and plaintiff is agreement holder. The agreement holder entered into contract with owner. Therefore, there is a privity of contract between the plaintiff and defendants. The defendants are parties in the suit because they are owners of the property. A third party who is not owner of the property is neither a necessary party nor a proper party. Even if the impleading applicants are not made as party in



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the suit then the suit is to be adjudicated between the plaintiff and defendants. Therefore, in this regard, the impleading applicants are not necessary parties and also not proper parties. The impleading applicants are trying to come on record in the appeal making assertion that they are the daughter and great grand children of V.Ramalingam Mudaliar. Therefore, only on this legal heirship, the impleading applicants are attempted to come on record. It is assertion of the impleading applicants that before execution of the Will dated 10.09.1942, Sri. V.Ramalingam Mudaliar was the owner of the suit property. As discussed above, the findings on the Will has attained finality and is proved to be validly executed. Therefore, soon after the death of Sri. V. Ramalingam Mudaliar, the Will came into force and became operative, meaning Defendant No. 1-Trust became the owner of the suit property bequeathed in the Will. Consequently, the impleading applicants have no interest or concern regarding the suit schedule properties. A perusal of the impleading application reveals that the applicants have



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suppressed many material facts. Furthermore, it is undisputed that the impleading applicants have filed a separate suit in OS No. 7348/2011.

59. The suit in O.S.No.7348/2011 is filed on behalf of V.Ramalingam Gajambal Family Trust. The said suit is filed with the following reliefs:

"a. Of declaration declaring that the 1st defendant trust is not validly and legally created under the will dated 10/9/1942, produced as Document No. 3, of late V. Ramalingam Mudaliar,

b. Alternatively, if this Hon'ble Court is of the opinion that such a trust is created, of declaration that the 1st defendant trust has completely failed, as the objects of the trust is not fulfilled, and as a result of the same, all the properties/assets held by it reverts back to the legal heirs of late V. Ramalingam Mudaliar including the plaintiffs,

c. Of declaration that item Nos. 7, 9, & 10 of the suit schedule property are sold in favour of defendants 2, 4, & 3 respectively inconsistently with the defendant trust and the same are void-ab-initio and not binding on the legal heirs of late V. Ramalingam Mudaliar including the plaintiffs,

d. Of declaration that all defendants held and hold the suit schedule property in trust for the benefit of the plaintiffs,



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e. Directing ting the defendants to pay to the plaintiff the past and future mesne profit from 10/12/1956 till today after directing an inquiry into the same.

60. But this factum of filing suit in O.S.No.7348/2011 is not stated in the impleading applications. Therefore, the impleading applicants have suppressed this fact in the applications.

61. It is significant to note here that though the impleading applicants knew very well the fact that the validity of execution of Will dated 10.9.1942 is upheld by the Hon'ble Supreme Court but filed the suit suppressing the said fact of execution of Will but made a prayer that the Trust is not validly created under the Will dated 10.09.1942. Therefore, this is nothing but taking the court in a deviated way and misleading the court. Furthermore, the suit in O.S.No.7348/2011, the plaintiffs have stated that V.Ramalingam Mudaliar had not created any Trust under the said Will. Therefore, the legal heirs of V.Ramalingam, are in the suit , and in this appeal as



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impleading applicants are making connection with the property though it has bequeathed by V.Ramalingam Mudaliar under the Will dated 10.09.1942. Therefore, the impleading applicants are guilty of suppression of material facts. In the Will dated 10.09.1942, Sri.V.Ramalingam Mudaliar had bequeathed other properties to other persons and also crated Trust of defendant No.1 and bequeathed suit schedule property in favour of defendant No.1-Trust. Therefore, the impleading applicants and their family members are trying to knock-off the property, which was bequeathed under the Will and under the Will, the beneficiary became owner of the property.

62. Further, in this regard, the impleading applicants and other family members have created Trust Deed dated 16.03.2011 and impleading applicants are parties to the said Trust. The sole object of the Trust is to identify the properties left behind by the V.Ramalingam Mudaliar and gathering information, documents pertaining to the property of V.Ramalingam Mudaliar, administration



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of the properties and entering into agreement, compromise, etc. in dealing with properties. Therefore, this Trust Deed is created just to manage the properties. This fact is also suppressed in the impleading applications.

63. Therefore, upon considering the impleading applications, it is found to be nothing but making another attempt to get back the property which was validly bequeathed in favour of defendant No.1- Trust by just making claim that they are legal heir of the V.Ramalingam Mudaliar. When suit property was parted from V.Ramalingam Mudaliar in favour of defendant No.1-Trust by the Will executed by V.Ramalingam Mudaliar then the impleading applicants are in no way concerned with the suit property and therefore, they became strangers to the suit property. Therefore, under these circumstances, when suit for specific performance is filed, the impleading applicants are found to be strangers to the dispute and even in their absence, the suit or appeal could be disposed of effectively as defendants are owners and plaintiff is



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agreement holder. It is not the case of the impleading applicants that to declare title over the property claiming their ownership and title. It is just an attempt by the impleading applicants claiming to be having title and ownership but without any relief of seeking declaration of title. The impleading applicants are at liberty to file suit for declaration to declare to claim their title and ownership over the property but that is not done by the impleading applicants. Therefore, the impleading applications are found to be misconceived applications and filed on untenable grounds. Therefore, the impleading applicants are not necessary and proper parties to the dispute between the appellant/plaintiff and defendants/respondents in a suit for specific performance of contract. The judgments relied on by the learned Senior Counsel Sri. K.G.Raghavan, appearing on behalf of the impleading applicants that in ***L. Puttaiah's case stated supra*** is not applicable in the present case having difference in the factual matrix that the above suit is filed for declaration of ownership over the property. In that



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context, it is held that the impleading applicants are permitted to come on record. But in the present case, relief claimed is specific performance. The impleading applicants though has filed suit in O.S.No.7348/2011, they have not succeeded in the said suit. The impleading applicants prayer of seeking declaration is rejected in OS.No.7348/2011. The said suit is for declaration to declare that they are owners and having title but is dismissed for want of payment of court fee. This makes difference in factual matrix in the above cited case from the present case. Therefore, the above said citation is not applicable.

64. The another judgment in ***Arunima Baruah's case*** stated supra is not applicable in the present case having difference in factual matrix and it was held in the said decision that though some facts are suppressed but it does prejudice the parties and such suppression was not material fact. Therefore, contended that the applications are maintainable. But considering the present case, the



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impleading applicants have once filed suit for declaration in O.S.No.7348/2011 seeking declaration but it was dismissed. This establishes that the applicants knew they lacked ownership. Having failed in their earlier attempt, they are now trying to achieve the same result indirectly by impleading themselves into this appeal. This indirect approach is legally impermissible. Therefore, having difference in factual matrix in the above cited case in the present case, the above said judgment is also not applicable.

65. It is not disputed that the Will executed by V.Ramalingam Mudaliar on 10.09.1942 has attained finality and it was declared by the Hon'ble Supreme Court that the said Will was duly executed and the said validity of Will is confirmed in the judgment as reported in AIR 1963 SC 1. As per this Will, respondent No.1-Trust was created and suit schedule property was bequeathed for public charity and thus, the suit property was parted with V.Ramalingam Mudaliar and from his legal heirs as it has become the Trust property, the trustees have absolute



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control of administration, management, superintendence over the Trust and suit schedule property.

66. Considering the historical factual matrix as per chronological events, earlier the impleading applicants have filed suit in O.S.No.7348/2011 for very same and similar relief as claimed in the present applications and the said suit was dismissed as withdrawn as the impleading applicants and other plaintiffs in the said suit have not complied with payment of court fee. The impleading applicants are trying to enlarge the scope of suit and in the appeal for claiming declaration, which is impermissible when the suit is filed for specific performance. The declaration being claimed by impleading applicants is only on the base that these impleading applicants are legal heir of V.Ramalingam Mudaliar and the suit property earlier before execution of Will was belonging to V.Ramalingam Mudaliar. Therefore, only on this connection the impleading applicants are claiming their right over the suit property. When this being the fact that as on the date of



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filing of the suit in O.S.No.7348/2011, the impleading applicants were not owners. Therefore, when the impleading applicants were not owners and they are aliens to the suit for specific performance, admittedly, respondent No.1 – Trust was created through above stated Will and the suit property was bequeathed in favour of respondent No.1-Trust for charitable purpose and has become owner has every power to control and administer the property. If at all the impleading applicants make claim over the property then that ought to have been in a separate proceedings but in this regard, the impleading applicants have failed in suit in O.S.No.7348/2011. Therefore, when the applicants have failed in their attempt in O.S.No.7348/2011, the present applications are filed which is completely misconceived one. Therefore, the impleading applicants are not necessary and proper parties to the appeal.

67. As discussed above, under the principles of law laid down, a necessary party is one in whose absence



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effective decree cannot be passed. A proper party is one though is absent it would not bear out come in the suit. Therefore, considering the nature of suit in the appeal, respondent No.1-Trust is owner of the suit property and entered into agreement of sale with the plaintiff and therefore, predominantly the suit is between the plaintiff and defendants and this suit for specific performance can be adjudicated even without impleading the applicants. Therefore, impleading applicants are not necessary and proper parties. As per principles laid down by the Hon'ble Supreme Court as discussed, it is reiterated that in a suit for specific performance, the controversy is confined to the enforceability of the contract and the persons asserting independent rights cannot be added merely to avoid multiplicity of proceedings.

68. The impleading applicants have filed applications for impleadment is nothing but enlarging the scope of suit to convert the suit for specific performance simpliciter into a suit for declaration making the case more



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complicated and though the impleading applicants do not have any claim over the property. Therefore, the impleading applicants are not necessary and proper parties.

69. The impleading applicants admittedly are not parties to the agreement of sale dated 13.06.1984. The impleading applicants are not legal heirs of either plaintiff or defendants. The claim of the applicants is independent of contractual rights that fall for adjudication in the present appeal. On an earlier attempt, the impleading applicants have asserted their independent right in earlier suit proceedings in O.S.No.7348/2011 against the Trust and property but they have failed. Therefore, the present attempt is nothing but futile attempt. Thus, the impleading applicants are not necessary and proper parties.

70. Considering the chronological events involved in the suit and appeal, the disputes relating to the agreement of sale has commenced since 1987 and traversing multiple rounds of litigation before the Trial Court, this Court and



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the Hon'ble Supreme Court and is nearly 40 years of litigation. But, the impleading applicants for the first time, in the year 2011 have started to assert their claim, which shows that the applicants have put an eye over the suit property by any method to knock-off the property.

71. The apprehension expressed by the impleading applicants that existing trustees have failed adequately to protect the interest of the Trust cannot be constitute a ground for impleadment. The adequacy or otherwise in respect of Trust property is not a test under Order 1 Rule 10 of CPC and for which, the applicants have other remedies. Also, there is no rival dispute of claiming title over the property by defendant No.1 and impleading applicants. Therefore, the impleading applicants are not necessary and proper parties. By virtue of the Will as above stated, respondent No.1-Trust has become owner of the Trust property then no other person has *locus standi* to come in the proceedings initiated for specific performance of contract where the impleading applicants



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are aliens to the contract and the plaintiff is *dominus litis* and he has dispute only against the defendants. Therefore, the impleading applicants are not necessary and proper parties.

72. If the applications filed for impleadment are considered, it would substantially alter the nature of the suit and appeal. If the impleading applicants are permitted to come on record, then the proceedings would be on the affairs of the Trust, administration, management of Trust property, conduct of trustees, rival trust, etc., which is wholly impermissible in the present appeal. If at all the impleading applicants have any claim, that would be by other proceedings for filing suit for declaration but this attempt also been made by the applicants and have failed in O.S.No.7348/2011.

73. The *locus standi* of the impleaing applicants to come on record in the proceedings shall have to make *prima facie* case that his right is legally recognizable and



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aligned with scope of the suit and free from hostile intent. A comprehensive examination of the documents produced at this stage, which are Trust Deed dated 16.03.2011, certified copy of the plaint in O.S. No.7348/2011, the order sheet and direction passed in O.S.No.7348/2011 for payment of court fee, the order passed in W.P. No.5779/2012 dated 02.03.2012 and the order passed by the Hon'ble Supreme Court in SLP (Civil) No.13687/2012 dated 10.05.2012, all reveal that the impleading applicants do not have *locus standi* to participate in this appeal proceedings by considering the principles of laid down by the Hon'ble Supreme Court as above stated.

74. The impleading applicant No.1 is claiming to be managing trustee of the Trust Deed made on 16.03.2011 and filed the present applications just to making claim over the suit property, which is already bequeathed and parted by V.Ramalingam Mudaliar by creating a Trust as per the Will of the year 1942. Therefore, the impleading



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applicants have no *locus standi* to come on record in the appeal.

75. The intention and object of impleading applicants can be taken into consideration in filing O.S. No.7348/2011 that it is nothing but just to make claim over the properties. When the prayers in the said suit are considered, the pleading in the plaint and prayer made in the said suit are found to be inconsistent. As discussed above, in the plaint, in OS.No.7348/2011 it is pleaded that V.Ramalingam Mudaliar has not created any Trust but admittedly during life time of V. Ramalingam Mudaliar, respondent No.1-Trust was created and suit property was bequeathed like other properties also. Therefore, the object and motive of the impleading applicants who are also plaintiffs in the said suit is clear that just to make claim over the property, which is found to be impermissible under law. These facts are suppressed in the impleading applications. Therefore, the impleading applications are liable to be dismissed due to suppression



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of facts. The impleading applicants have failed in their attempt in getting relief in O.S. No.7348/2011 by not paying court fee as calculated in the said suit and challenged the same in W.P. No.5779/2012 and SLP (Civil) No.13687/2012, but they were unsuccessful, withdrew the O.S. No.7348/2011 without obtaining any liberty to file a fresh suit or to initiate any proceedings. Therefore, when the impleading applicants have failed to succeed in O.S. No.7348/2011, to bypass such failure, have filed these instant impleading applications in the present appeal. Therefore, as per Order XXIII Rule 1 of CPC, operates as an absolute legal bar against re-agitating the same claims. Therefore, the *locus standi* of impleading applicants to make claim over the property was seized in O.S.No.7348/2011. This object and motive of the impleading applicants can be considered by considering the address of the impleading applicants shown in the cause title is same address as shown in the O.S.No.7348/2011. Therefore, the impleading applicants have already lost their claim in O.S. No.7348/2011 but



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once again have filed the applications for impleading themselves to contest the suit. Therefore, in this way when the relief to be claimed by the applicants is barred, the impleading applicants are not necessary and proper parties.

76. The claim of the impleading applicants in O.S.No.7348/2011 and claim in the impleading applications are considered, then it clearly emerges that both are found to be in a same and similar way of making claim, which can be comparatively mentioned herein.

1. The suit in O.S. No.7348/2011 filed by impleading applicants and other family members under name and style as '*Ramalingam Gajambal Family Trust*', whereas, the impleading applications are filed in individual capacity by Kausalya, her son and her grand son.
2. In O.S. No.7348/2011, the prayer to declare the Public Trust is invalid and illegal, whereas, in the impleading applications by



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relying on the Trust's existence to claim entry as beneficiaries.

3. In O.S.No.7348/2011, prayer to declare the Trust completely failed so that assets revert to them, whereas, in the impleading applications, claiming an interest in managing the welfare of the Trust affairs.
4. In O.S.No.7348/2011, the prayer that the properties be held strictly for the private benefit of the family under prayer 3, whereas, in the impleading applications, purportedly entering to protect the public Trust administration.
5. In O.S.No.7348/2011, the attempt is to target for acquisition of the private family properties, whereas, in the impleading applications, attempt is to implead in the present RFA.

77. Therefore, when O.S.No.7348/2011 and the pleadings in the impleading application are considered, both are found to be same and similar claim, whereas, the OS No.7348/2011 was dismissed without seeking liberty to file a fresh suit or any proceedings and in the same way,



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the instant impleading applications are filed which is barred under the law as above discussed. Therefore, the impleading applicants are not necessary and proper parties.

78. The impleading applicants are asserting that they are beneficiary of respondent No.1 – Trust and respondent No.1-Trust for social welfare and therefore, they intended to implead in the appeal. The impleading applicants are denying the plea that they are interested in administration of public charitable Trust by claiming their legal interest in the subject matter of the civil proceedings. If the impleading applicants are interested in the objects of respondent No.1 – Trust, it does not entitle to intervene in suit and appeal just to make claim over the property. The impleading applicants though are asserting to come on record for administrating the Trust, the intention behind is to make claim over the property. Therefore, the attempt is being made by the applicants is not genuine one. If this application is allowed, on the guise of proper



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administration then it would be ended chaotic situation. If the impleading applicants desire for administration of the respondent No.1-Trust then they have other remedy as per the provisions of the Code of Civil Procedure. Therefore, the impleading applications are not maintainable. Thus, the impleading applicants are not necessary and proper parties.

79. On two earlier occasions, the impleading applicants made similar attempts by filing impleading applications. Initially, the impleading applicants and others questioned the testament of the Will dated 10.09.1942. Ultimately, the Hon'ble Supreme Court upheld the validity of the said Will in the judgment reported in AIR 1963 SC 1. When the first attempt was failed then as a second attempt, the impleading applicants and others have filed suit in O.S. No.7348/2011 but proper court fee was not paid. Hence, the said suit was dismissed as withdrawn without any liberty. Under these two occasions, the only object of the impleading applicants and others is that to



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make claim over the suit schedule property, which is bequeathed in favour of Respondent No.1-Trust by way of Will of the year 1942 by V. Ramalingam Mudaliar. When the above stated attempts have been failed, as a third attempt, these instant impleading applications are filed. Therefore, there is force in the argument canvassed by the learned Senior Counsel for respondent No.1- Trust and plaintiff that the attempt made by impleading applicants is not bonafide one. Thus, impleading applicants are not necessary and proper parties. The main intention of the impleading applicants is regarding asserting their rights over suit schedule property but showing face as proper administration of the Trust. Therefore, this is not permissible in appeal/suit, where the proceedings are for specific performance of contract simpliciter. Therefore, the impleading applications are nothing but to keep alive the dispute and found to be the impleading applicants are not necessary and proper parties.



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80. The attempt of the impleading applicants questioning the authority of respondent No.1-Trust to alienate the Trust assets but the Will of the year 1942 executed by testator of V.Ramalingam Mudaliar gives power to deal with the properties in the interest of Trust for achieving their object.

81. The Hon'ble Supreme Court in ***Chairman Madappa's case*** stated supra, at paragraph 7 observes as follows:

"7. Para (11) of the scheme provides for the appointment of two managers for a period of five years who will be eligible for re-appointment. One of the managers appointed under the scheme of 1948 was the then first defendant in the suit of 1942. The last part of paragraph (11) is in these terms:

"If the first defendant neglects or refuses to cooperate with his co-manager, the co-manager or any two of the veerashaivas interested in the institution may apply for necessary directions to the court."

82. The impleading applicants being strangers to the contract, cannot weaponize the general principles of



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Trust alienation to force a backdoor entry into this appeal which is beyond the scope and consideration of suit for specific performance. Therefore, in this regard, the participation of the applicants in the appeal proceedings is unnecessary for complete adjudication of the specific contractual issues involved in the appeal. Therefore, the applicants are not necessary and proper parties.

83. Considering the conduct of the applicants that on earlier two occasions they have failed in their attempts and in this case for third time are asserting the same issues, which were already settled earlier as discussed above. Therefore, the impleading applications are nothing but abuse of process of Court. The following are the judgments to be cited a worthwhile as the said principles of law laid down are applicable in the present case:

1. *The judgment of the Hon'ble Supreme Court in the case of **S.P. Chengalvaraya Naidu v. Jagannath**¹⁵. The Hon'ble Supreme Court laid down that a person whose case is based on falsehood has no right to approach the court. A litigant who withholds a vital document from the court in order to gain an advantage plays*

¹⁵ (1994) 1 SCC 1



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a fraud on the court and must be thrown out at the very threshold.

2. *The judgment of the Hon'ble Supreme Court in the case of **A.V. Papayya Sastry v. Govt. of A.P.**,¹⁶. The Apex Court authoritatively enunciated that a judgment, decree, or order obtained by playing fraud on a court, tribunal, or authority is a complete nullity and non est in the eyes of the law. It can be challenged and dismantled at any court, at any stage, even in collateral proceedings.*
3. *The judgment of the Hon'ble Supreme Court in the case of **Meghmala & Ors. v. G. Narasimha Reddy & Ors.**¹⁷ The Supreme Court re-emphasized that suppression of a material fact is a fraud on the court. Discretionary power cannot be exercised in favor of a person who approaches the court with unclean hands, and any structure built on a foundation of suppression must collapse entirely.*
4. *The judgment of the Hon'ble Supreme Court in the case of **K. Jayaram & Ors. v. Bangalore Development Authority & Ors.**¹⁸ The Apex Court ruled that litigants have an explicit, mandatory duty to disclose all material facts and past litigations truthfully. Calculated concealment of previous failed filings completely disqualifies a party from claiming equitable interventions.*
5. *The judgment of the Hon'ble Supreme Court in the case of **Vishnu Vardhan @ Vishnu Pradhan v. The State of Uttar Pradesh &***

¹⁶ (2007) 4 SCC 221:

¹⁷ (2010) 8 SCC 383 (MANU/SC/0608/2010):

¹⁸ (2022) 12 SCC 815 (MANU/SC/1119/2021):



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Ors.¹⁹ A recent three-judge bench of the Supreme Court re-affirmed that fraud unravels everything and stands as an absolute exception to all procedural technicalities, because fraud and justice cannot dwell together.

6. The judgment of the Hon'ble Supreme Court in the case of **Ram Chandra Singh v. Savitri Devi**.²⁰ The Supreme Court authoritatively held that fraud vitiates every solemn act. Fraudulent misrepresentation is an act of deliberate deception with the design of securing something which is not otherwise legally permissible.
7. The judgment of the Hon'ble Supreme Court in the case of **Ganpatbhai Mahijibhai Solanki v. State of Gujarat**.²¹ The Apex Court clarified that when an order is obtained through systematic non-disclosure of material historical facts, the entire standing of that party stands destroyed, and the courts are duty-bound to prevent such parties from taking advantage of their own wrong.
8. The judgment of the Hon'ble Supreme Court in the case of **Dalip Singh v. State of U.P.**²² The principles in this precedent directly apply to the deceptive conduct of the Applicants. The Hon'ble Supreme Court sharply rebuked litigants who rely on misrepresentation and suppression of material facts for strategic gain, ruling that truth is the bedrock of justice. Litigants who approach the court with unclean hands by deliberately withholding

¹⁹ (2025 INSC 884):

²⁰ (2002) 2 SCC 114

²¹ (2008) 12 SCC 481

²² (2010) 2 SCC 114



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historical records forfeit their right to relief. Here, the Applicants systematically masked their status as trustees of a hostile private trust and concealed the unconditional withdrawal of their past failed lawsuit (O.S. No. 7348/2011) Under the rule of Dalip Singh, this calculated deception completely destroys their locus standi.

84. Therefore, applying the principles of law laid down as above stated, the impleading applicants have filed Review Petition No.235/2023 before this Court by consciously suppressing the earlier proceedings, previous pleadings and final judicial outcomes, all of which directly bear upon their bonafides and entitlement to be impleaded. The applicants have masked these legal proceedings initiated earlier and attained finality but though they have suppressed while filing Review Petition No.235/2023 and by misdirecting the Court have obtained order reviewing the order passed by this Court dated 15.02.2023. Therefore, the impleading applicants are guilty of suppression of facts and misdirected the Court in obtaining the order in RP No.235/2023.



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85. While considering the order passed in R.P. No.235/2023, the impleading applicants have not disclosed the judicial pronouncements on the Will reporting in judgment AIR 1963 SC 1 and in O.S.No.7348/2011. Therefore, suppressing the facts, obtained an order in R.P. No.235/2023. There is no explanation by the impleading applicants why the vital documents could not be produced in R.P.No. 235/2023. The plaintiff and respondent No.1 – Trust have come to know of these documents when the order in R.P.No.235/2023 was challenged before the Hon'ble Supreme Court and there the applicants have revealed these previous judicial proceedings and then came to know that these vital documents are suppressed from this Court in R.P.No.235/2023. Therefore, it is proved that by suppressing the previous proceedings and by playing fraud, obtained recalling order passed by this Court dated 15.02.2023 and get the restoration of the appeal. Therefore, the approach of the impleading applicants is not with the clean hands and has played fraud while getting order of restoration of appeal.



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86. Learned Senior Counsel Sri. K.G.Raghavan, appearing on behalf of the impleading applicants submits that in the order passed in R.P.No.235/2023 and R.P.No.226/2024 C/w. R.P.No.232/2024 recognized that impleading applicants are necessary and proper parties. But considering the order passed by the Hon'ble Supreme Court in SLP(Civil) Dairy No.36940/2025, it is directed that the appeal in RFA No.1294/2022 shall be heard and decided on merits by un-influencing by any findings or orders recorded in the review petitions. The order passed in the Review Petition observes that the impleading applicants are necessary and proper parties. However, this status can be reconsidered on its merits by virtue of the order passed by the Hon'ble Supreme Court. The direction to decide the appeal on its merits means to bring a logical conclusion to the dispute within the appeal. As observed above in R.P. No. 235/2023, the applicants suppressed material facts regarding previous proceedings—specifically, one challenging the Will and another filing the suit in O.S.



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No. 7348/2011 and applicants were unsuccessful and these facts were not brought to the notice of the Court. Therefore, the Hon'ble Supreme Court has ordered to consider the appeal on its merits being uninfluenced by what are observations made in the Review Petition.

87. Suppression of facts may be either trivial or substantial. If the suppression is trivial that does not go to the core of the issue, it may be ignored. However, where the suppressed facts are material, substantial, and vital, going to the very root of the issue involved in the case, such suppression assumes great significance. Suppression of material facts that misleads the Court amounts to misleading the Court, which is nothing but playing fraud upon the Court. In view of the above, the judgments relied upon by the learned Senior Counsel, Sri K.G. Raghavan, appearing for the impleading applicants, are not applicable to the facts and circumstances of the present case. This is because the suppression of facts, as observed above, is vital, significant, and substantial, going to the very core of



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the issues involved. Therefore, the fraud committed by suppressing these material facts vitiates the entire impleading proceedings. If the particulars of the previous two legal proceedings had been brought to the notice of the Court in R.P. No. 235/2023, the order passed therein would have been different. Therefore, the order dated 07.02.2024 passed in R.P. No. 235/2023 was obtained by suppressing vital and material facts that went to the very core of the issues involved in the case.

88. Therefore, considering the above factual matrix involved in the case as discussed in detail, the impleading applicants are found to be not necessary and proper parties in the *lis*. The suit filed is simply for decree for specific performance. Admittedly, the respondent No.1 Trust is owner of the property and plaintiff has entered into agreement of sale with respondent No.1-Trust. Therefore, in suit for specific performance, these two parties are necessary parties. The only contention of the impleading applicants is that they are legal heirs of



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V.Ramalingam Mudaliar and V.Ramalingam Mudaliar had created a Trust under the Will and bequeathed the property in favour of respondent No.1-Trust. Therefore, only on this claiming relationship the impleading applicants now are making attempt to come on record and if this application is allowed, it enlarges the scope of appeal into considering the welfare of trust, creation of trust, its functions, administration and management and also once again amounting to consider the validity of Will, which is already adjudicated and attained finality. Therefore, for all above stated reasons as discussed in detail, the impleading applications found to be misconceived and therefore, impleading applicants are not necessary and proper parties. Therefore, the application I.A.Nos.1/2024 and 3/2023 filed under Order I Rule 10(2) read with 151 of CPC are liable to be dismissed. Accordingly, I answer points 1 & 2 in the **negative**, point Nos.3 to 5 in the **affirmative** and point No.6 as per the following:



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ORDER

I.A.Nos.1/2024 and 3/2023 filed under order I Rule 10(2) of CPC are hereby ***dismissed***.

For further arguments, call the case on 24.08.2026.

**Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE**

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List No.: 1 Sl No.: 81