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Impleading Petitions Can Be Entertained at Any Stage Before Judgment: Madras High Court Clarifies

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Introduction

In an important decision strengthening the rights of transferees pendente lite, the Madurai Bench of the Madras High Court has reaffirmed that an impleading petitions can be entertained at any stage before the pronouncement of judgment. The ruling in P. Marimuthu v. S.S. Prabhakaran[1] provides useful guidance on the application of Order I Rule 10(2) of the Code of Civil Procedure, 1908 (CPC), and the doctrine of lis pendens under the Transfer of Property Act, 1882.

Factual Background

The dispute arose out of a suit for specific performance filed by S.S. Prabhakaran based on a sale agreement dated 25 July 2011. According to the plaintiff, the defendant, Subburaj, agreed to sell approximately 12 acres of land for a total consideration of Rs. 41,23,000/-, of which substantial advance payments were made. When the defendant failed to execute the sale deed, the plaintiff approached the Principal District Court, Virudhunagar.

During the pendency of the suit, the defendant sold the same property to a third party, P. Marimuthu, on 16 October 2015. When the original defendant failed to contest the suit and was set ex parte, Marimuthu, realising that the outcome could directly impact his rights as a subsequent purchaser, filed an application under Order I Rule 10(2) CPC to be impleaded as a party.

The trial court, however, dismissed the impleading petition on the ground that the suit had already been reserved for judgment. Shortly thereafter, the suit was decreed in favour of the plaintiff. Aggrieved, Marimuthu filed an appeal under Section 96 CPC, challenging both the dismissal of his impleading application and the consequential decree.

Arguments from Both Sides

The appellant contended that he was a bona fide purchaser for value who had acquired the property in good faith and taken possession. He argued that once it became clear that the original vendor had abandoned the proceedings, it was vital for him to be heard to protect his substantial civil rights. He further submitted that the expression “at any stage of the proceedings” in Order I Rule 10(2) CPC must be interpreted to include any time before the pronouncement of judgment.

The plaintiff resisted the appeal on the ground that the impleading application was belated since the suit had been reserved for judgment. The plaintiff further submitted that as a transferee pendente lite, the appellant was bound by the doctrine of lis pendens and could not assert rights contrary to the outcome of the original suit.

Judicial Reasoning

The Division Bench, comprising Justices G.R. Swaminathan and M. Jothiraman, analysed the twin questions of the right of a transferee pendente lite to be impleaded and the scope of judicial discretion under Order I Rule 10(2) CPC.

The Court held that under Section 52 of the Transfer of Property Act, 1882, transfers pendente lite are not void but remain subservient to the rights of the parties to the litigation. The doctrine of lis pendens protects the integrity of the judicial process by preventing any party from defeating the outcome by transferring property during the pendency of a suit.

However, relying on Supreme Court decisions such as Amit Kumar Shaw v. Farida Khatoon (2005) 11 SCC 403 and A. Nawab John v. V.N. Subramaniyam (2012) 7 SCC 738, the Court reiterated that a transferee pendente lite has a significant interest in defending the title and must ordinarily be allowed to participate in the proceedings, especially if there is a risk that the original party may not properly contest the suit.

Crucially, the Court rejected the argument that impleading petitions cannot be entertained once a matter is reserved for judgment. It clarified that the phrase “at any stage of the proceedings” used in Order I Rule 10(2) CPC unambiguously means any time prior to the pronouncement of judgment.

The Court also highlighted that the trial court should have given the appellant reasonable time to challenge the dismissal of his application before passing the final decree, rather than proceeding immediately. The possibility of collusion between the plaintiff and the original defendant, who had abandoned the contest, could not be ignored.

Judgment

Setting aside the decree of the trial court, the High Court allowed the appeal and directed that the impleading application be accepted. The Court further directed that the trial court must permit the now impleaded defendant to cross-examine the plaintiff and adduce formal evidence regarding the sale deed. It emphasised that the proceedings should be concluded on merits and in accordance with law by 31 August 2025.

Importantly, the Court clarified that the vendor, having been set ex parte, would remain so, and that the newly impleaded defendant would step into the vendor's shoes with the right to contest all issues already raised in the written statement.

Implications for Future Cases

This judgment reinforces the principle that procedural technicalities should not defeat substantial rights, particularly when the risk of collusion or unfair prejudice to an innocent transferee exists. Transferees pendente lite are reminded that while the doctrine of lis pendens limits their rights, it does not extinguish them entirely. Courts have a duty to balance the doctrine with the need to ensure that parties with a legitimate interest are not left remediless.

For trial courts, the ruling clarifies that the power to implead parties under Order I Rule 10(2) CPC must be exercised with sensitivity to the facts of each case, even when proceedings are at an advanced stage.

Conclusion

P. Marimuthu v. S.S. Prabhakaran is a timely reaffirmation of the judiciary's commitment to protect bona fide purchasers and uphold the principle that impleading petitions can be entertained at any time before judgment. The decision strikes a careful balance between safeguarding the sanctity of pending litigation and preventing procedural injustice to parties whose substantial rights are at stake.

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1. A.S. (MD) No. 158 of 2020 ??

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