

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. /2025
[@ SLP [C] NO.12385/2023]

N. MOHANASUNDARAM

Appellant(s)

VERSUS

K.M.VINOTHAN & ANR.

Respondent(s)

O R D E R

Leave granted.

This is a case where the appellant had filed an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (for short, the CPC) praying to be impleaded as defendant No.2, in a suit for partition and separate possession, filed by respondent No.1 herein. While the Trial Court allowed the said application, the High Court, vide the impugned judgment, has set aside the order of the Trial Court. Aggrieved by the same, the appellant is before us.

We have perused the impugned judgment. **What is required to be considered while dealing with an application under Order 1 Rule 10 of the CPC, is as to whether a party is a necessary and proper party for adjudication. Discretion is given to the Court to decide the said fact, for which even an application is not required. In other words, the discretion given**

is to facilitate the Court to arrive at the correct decision.

The High Court, in our view, has gone into the merits of the case, which ought not to have been done, while dealing with an application under Order 1 Rule 10 of the CPC.

In such view of the matter, the impugned judgment stands set aside. The order passed by the Trial Court stands restored and the appellant is arrayed as Defendant No.2 in the suit.

The appeal stands allowed, accordingly.

All issues are left open.

Pending application(s), if any, shall stand disposed of.

..... J.
[M.M. SUNDRESH]

..... J.
[RAJESH BINDAL]

NEW DELHI;
FEBRUARY 12, 2025.

ITEM NO.41

COURT NO.8

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 12385/2023

[Arising out of impugned final judgment and order dated 11-01-2023 in CRP No. 2018/2019 passed by the High Court of Judicature at Madras]

N. MOHANASUNDARAM

Petitioner(s)

VERSUS

K.M.VINOTHAN & ANR.

Respondent(s)

FOR ADMISSION and I.R. and IA No.118525/2023-EXEMPTION FROM FILING O.T.

IA No. 118525/2023 - EXEMPTION FROM FILING O.T.

Date : 12-02-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH

HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. V. Ramasubramanian, AOR

For Respondent(s) Mr. S Ravishankar, Adv.
Mr. Raaja Thalapathy, Adv.
Mrs. S. Yamunah Nachiar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal stands allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(ASHA SUNDRIYAL)
DY. REGISTRAR

(POONAM VAID)
ASSISTANT REGISTRAR

[Signed order is placed on the file]