

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.1265 of 2016

Subramaniam

... Petitioner

VS.

M.Sundramoorthy

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 25.01.2016 in I.A.No.656 of 2014 in O.S.No.317 of 2014 on the file of III Additional District and Sessions Judge, Coimbatore.

For Petitioner : Mr.K.Sudhakar

ORDER

The 17th defendant in O.S.No.314 of 2014 on the file of the III Additional District Judge, Coimbatore is the petitioner in the present revision.

2. The above said suit was filed by the respondent herein against 39 persons, including the revision petitioner for partition of plaint 'A' to 'E' schedule properties claiming 1/3rd share. The revision

petitioner has been added as a defendant on the premise that he is a tenant in respect of a portion of the suit property and hence a proper party.

3. The revision petitioner, who figures as the 16th defendant, filed I.A.No.656 of 2014 under Order 1 Rule 10(2) C.P.C for striking out his name from the array of parties with exemplary costs.

4. It was contended by the revision petitioner in the supporting affidavit filed before the trial Court that he was a tenant in respect of any of the suit properties and that the property in his possession has nothing to do with the property described in the plaint schedule. It was his further contention that an attempt was made to trespass into the property in the possession of the revision petitioner and with that malafide intention, the revision petitioner was made a party defendant to the above said suit.

5. The learned trial Judge, after hearing both sides, rejected the contention of the revision petitioner and dismissed the said application holding that the plea made by him was one to be decided based on evidence to be adduced in the suit. As against the said

order of the trial Court, the present Civil Revision Petition has been filed.

6. It shall also not be out of context to mention here that several other defendants filed similar applications. As many as 17, such applications for striking of their names from array of parties came to be filed before the trial Court and all those applications were jointly heard and disposed of by a common order dated 25.01.2016.

7. The very fact that the revision petitioner alone has chosen to file the present Civil Revision Petition also makes it clear that the present Civil Revision Petition has been filed as a sample case for the others to follow suit.

8. Upon considering the common order passed in the said interlocutory applications and the decretal order passed in I.A.No.656 of 2014 in O.S.No.317 of 2014 and copies of the other documents produced in the form of typed-set of papers, this Court is of the considered view that the present revision has been filed vexatiously to cause delay in disposal of the suit. There is no merit in it and the same deserves dismissal at the threshold.

P.R.SHIVAKUMAR.J

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9. Accordingly, the Civil Revision Petition is dismissed. No costs.

25.04.2016

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To

The III Additional District and Sessions Judge,
Coimbatore.

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