

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2069 of 2016

Sanjaikumar : Petitioner
versus

1.Vijaya
2.Senthilkumar : Respondents

PRAYER: Revision filed against the order dated 29.2.2016, in I.A.No.464 of 2015 in O.S.No.29 of 2009 on the file of the Principal District Judge, Namakkal.

For petitioner : Mr.C.Prakasam

For respondents : No appearance

ORDER

The petitioner, who was then minor, was impleaded as a defendant in O.S.No.29 of 2009 represented by guardian.

2. The respondents subsequently filed an application and declared him as major. The petitioner thereafter filed an application to receive additional written statement. The application was dismissed by the Trial Court. The said order is under challenge in this civil revision petition.

3. Heard the learned counsel for the petitioner. None appears on behalf of the respondents, in spite of printing their name in the cause list, after service.

4. The respondent filed a suit for partition. In the said suit, the petitioner was impleaded as third respondent. The petitioner attained majority during the currency of the suit. He was therefore declared as major. It was only thereafter, the petitioner filed an application for filing additional written statement.

5. The learned trial Judge dismissed the application on the ground that defendant in the suit has already filed written statement and additional written statement. The Trial Court committed a jurisdictional error by indicating that the written statement filed by the first defendant would bind the petitioner, who was arrayed as third respondent. The copy of the plaint produced by the petitioner indicates that the present petitioner was not even represented by a guardian. The petitioner having attained majority, is entitled to file a written statement as there was no written statement filed earlier by him. This aspect was not considered by the learned Trial Judge. I am, therefore, of the view that the petitioner must succeed.

6. In the result, the order dated 29 February 2016 is set aside. The application in I.A.No. 464 of 2015 is allowed.

7. In the upshot, I allow the civil revision petition. No costs. Consequently, C.M.P.No.10748 of 2016 is closed.

04.10.2016

Index:Yes/no
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To
The Principal District Judge, Namakkal.

K.K.SASIDHARAN, J.

(tar)

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