



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.06.2016

CORAM

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THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.R.P. (MD) No. 993 of 2016 (PD)
and
C.M.P. (MD) No. 4936 of 2016

P. Lambert Raja Prakash

.. Petitioner

Vs.

1. V. Rajamariyan

2. Lalitha Hepsibai @ Lalitha Pearson

3. P. Lambert Jeba Prakash

.. Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 29.03.2016 made in I.A.No.56 of 2016 in O.S.No.126 of 2004 passed by the learned Principal Subordinate Judge, Nagercoil.

For Petitioners : Mr. John Jeyakumar

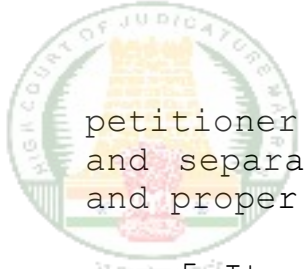
ORDER

This revision is directed against the order dated 29.03.2016 passed in I.A.No.56 of 2016 in O.S.No.126 of 2004 by the learned Principal Subordinate Judge, Nagercoil.

2. Heard Mr. John Jeyakumar, learned counsel appearing for the petitioner and perused the records.

3. The first respondent instituted the suit in O.S.No.126 of 2004 against the original second respondent for specific performance, based on the sale agreement dated 08.10.2003. Subsequently, the third respondent was impleaded as second defendant in the suit. After the entire evidence of the plaintiff is over, the petitioner filed an application in I.A.No.56 of 2016, to implead himself as third defendant in the suit. That application was dismissed by the learned Principal Subordinate Judge, Nagercoil. Aggrieved over the above said order, the present revision is filed.

4. Mr. John Jeyakumar, learned counsel appearing for the petitioner would submit that the first defendant is not the absolute owner of the property and the petitioner is having 1/3rd share and the second defendant, who is the brother of the



petitioner has filed a suit in O.S.No.125 of 2007 for partition and separate possession. Hence, the petitioner, who is necessary and proper party, has to be impleaded.

5. It is seen that the suit was filed in the year 2004 specifically alleging that the first defendant as absolute owner of the property entered into an agreement of sale. After institution of the suit, the third respondent was impleaded as second defendant and in the year 2007, another suit was filed for partition, claiming that the property belongs to joint family. Though the petitioner was well aware of the pending of the suit from the year 2004, he has not chosen to take any steps to implead himself as a party in the suit for about nine years and when it was listed for examination of defendants evidence, the present application came to be filed.

6. Though the petitioner claims share in the suit property, the same was not established till now and admittedly, the first defendant, mother of the plaintiff had entered into an agreement to sell the property to the plaintiff.

7. Considering the above facts, I do not find any merit in the revision. In fine, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To
The Principal Subordinate Judge, Nagercoil.

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CSL/NGM-MP/21.06.2016 : 2P/2C

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