

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

CRP (PD) No.1523 of 2017 &
C.M.P.No.7087 of 2017

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| 1. Mohammed Yusuf | .. 1 st Petitioner/defendant |
| 2. S.A.Jamal Mohammed | .. 2 nd petitioner/proposed party |

Vs

Mohammed Abdulla	.. Respondent/Plaintiff
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Prayer:- Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the Order dated 24.02.2017 passed in I.A.No.79 of 2016 in O.S.No.90 of 2014 on the file of the I Additional District Judge, Cuddalore.

For Petitioners : Mr.P.Jagadeesan

ORDER

This revision petition has been filed to set aside the Order dated 24.02.2017 passed in I.A.No.79 of 2016 in O.S.No.90 of 2014 on the file of the learned I Additional District Judge, Cuddalore.

2. The first petitioner is the defendant and the second petitioner is the proposed party to be impleaded as the second defendant in the suit. The respondent has filed a suit for preliminary decree for partition and separate possession of his ½ share in the suit property including the business with

future income. According to the respondent, he and the first petitioner have purchased the property and are carrying on business in the name and style of 'Golden Steels'. Due to dispute between them, the respondent filed a suit for partition. The first petitioner filed a written statement stating that the business was started by the father of the first petitioner, who is the second petitioner herein and the Certificate of Registration also stands only in the name of the second petitioner. Hence, the respondent filed an application in I.A.No.79 of 2016 to implead the second petitioner as a necessary party on the ground that the first petitioner has taken a stand that the property belongs to his father, the second petitioner herein. The learned trial Judge, after considering entire materials available on record has allowed the application to implead the second petitioner as the second defendant in the suit. Against the said Order, the present Civil Revision Petition has been filed.

3. Heard the learned counsel for the petitioners and perused the records.

4. The first petitioner has taken a stand in the written statement that the property belongs to the second petitioner. In the said circumstances, the second petitioner is a proper and necessary party to decide the issue whether the property is a joint property of the first petitioner and the respondent, and whether the respondent is entitled for partition of the suit property exclusively belonging to the second petitioner. The main objection of the petitioners is that the application has been filed belatedly when the suit

was posted for cross examination of D.W.1. It is found that the second petitioner is a proper and necessary party to decide the suit and to avoid multiplicity of the proceedings.

5. By considering the entire materials available on record, the trial Judge has rightly allowed the application filed by the respondent to implead the proposed second defendant. There is no illegality or irregularity in the order dated 24.02.2017 passed by the learned I Additional District Judge, Cuddalore, warranting interference by this Court.

6. In the result, this Civil Revision Petition is dismissed. No cost. Consequently, the connected miscellaneous petition is closed.

25.04.2017

vrc

To,

The I Additional District Judge,
Cuddalore.

Index :Yes/No
Internet :Yes/No
Speaking Order / Nonspeaking Order

V.M.VELUMANI, J

vrc

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