

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.892 of 2017 &

C.M.P.No.4374 of 2017

K.S.Kalliappan

... Petitioner

v.

1.K.S.Jayachandran

2.Mageswari

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 14.12.2016 made in I.A. No.1515 of 2015 in O.S.No.252 of 2009 on the file of Principal District Munsif Court, Gobichettipalayam.

For Petitioner : Ms.V.V.Sathya

ORDER

Challenging the fair and final order passed in I.A. No.1515 of 2015 in O.S.No.252 of 2009 on the file of Principal District Munsif Court, Gobichettipalayam, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.252 of 2009 to declare that the defendant is not his son and for permanent injunction. The defendant filed his written statement and is contesting the suit. Thereafter, when the suit was posted for trial, the plaintiff took out an application in I.A. No.1515 of 2015 under Order I, Rule 10 of CPC, to implead his divorced wife as the second defendant in the suit.

3. The learned counsel appearing for the petitioner submitted that in order to establish that the first defendant is not the son of the plaintiff, the divorced wife of the plaintiff is the proper and necessary party.

4. On a perusal of the plaint, it is clear that the plaintiff has not stated anything about the proposed party or there is cause of action as against the proposed party. The relief sought for in the plaint is also as

against the first defendant alone. However, when there is no cause of action for making the proposed party as the second defendant, the Trial Court has rightly dismissed the application and declined to implead her as the second defendant. The averments stated in the plaint with regard to paternity of the first defendant can be established by examining the proposed party on the side of the plaintiff. In these circumstances, the Trial Court has rightly dismissed the application.

5. I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2017

Index : Yes/No

Rj

To

The Principal District Munsif Court,
Gobichettipalayam.

M. DURAISWAMY,J.,

Rj

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