



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP (MD) (PD) .No.418 of 2019
and
C.M.P (MD) .No.2067 of 2019

1.T.Janakiram
2.T.Prabhakaran
3.T.Manivannan
4.S.V.Subburaja

: Proposed parties/
Petitioners/Petitioners

Vs.

1.V.Subburam :Plaintiff/1st Respondent/1st Respondent

2.The Tahsildar
Uthamapalayam Tahsildar Office
Uthamapalayam

3.The District Collector
Theni District, Theni :Defendants/Respondents 2 & 3/
Respondents 2 & 3

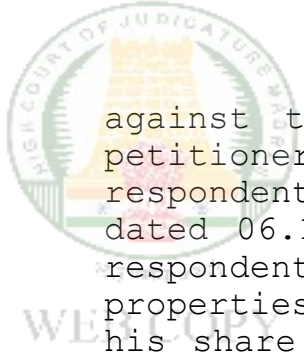
PRAYER : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.08.2018 made in I.A.No.201 of 2018 in O.S.No.104 of 2014 on the file of the learned District Munsif, Bodinayakanur.

For Petitioner : Mr.G.Aravinthan

O R D E R

This Civil Revision petition has been preferred against the fair and decreetal order dated 10.08.2018 made in I.A.No.201 of 2018 in O.S.No.104 of 2014 on the file of the learned District Munsif, Bodinayakanur.

2.I.A.No.201 of 2018 was filed by the petitioners herein to implead themselves as necessary parties in the suit in O.S.No.104 of 2014. The petitioners herein in the said petition would submit that the 1st respondent/plaintiff has filed a suit in O.S.No.104 of 2014 on the file of the learned District Munsif, Bodinayakanur against the respondents 2 and 3 herein/defendants for permanent injunction restraining them from distributing 1st respondent/plaintiff's entitled 1/6th rent to the proposed parties. The 1st respondent/plaintiff has filed a suit in O.S.No.191 of 2013



against the proposed parties and the same was dismissed. The petitioners herein would further submit that the 1st respondent/plaintiff was removed from the partnership by resolution dated 06.10.2002 and the same was informed to him. Therefore, 1st respondent/plaintiff has no right or title over the suit properties. Further one of the partner namely S.V.Subramani sold his share to another partner namely Prabhakaran by virtue of sale deed dated 21.03.2012 and as such he is having 2/6 share in the suit properties.

3.In the counter statement, the 1st respondent/plaintiff has contended that already he filed O.S.No.191 of 2013 regarding amendment of the suit properties by way of lease. The suit properties involved in the present suit viz., O.S.No.104 of 2014 is the theatre and there is also the documents regarding to maintaining and sharing of income from the suit properties. The same facts have been stated by the petitioners herein in their written statement in O.S.No.191 of 2013 and the right of the 1st respondent/plaintiff's 1/6th share also admitted in the said suit.

4.On perusal of the oral and documentary evidence, the trial Court has observed that the proposed parties filed a written statement in O.S.No.191 of 2013 admitting the 1st respondent/plaintiff's 1/6th share in the suit property. Exhibits R2 and R3 would go to show that the 1st respondent/plaintiff is entitled to 1/6th share in the suit property. The relief sought for in the suit is not to distribute the 1st respondent/plaintiff's 1/6th share rent to the proposed parties and the pending of the suit is came to the knowledge of proposed parties is recent past on 04.07.2018 is not believable one and the dispute with regard to the partnership firm. After observing all these things, the trial Court has given a finding that the proposed parties are not entitled to add in the suit as it is pending for trial and dismissed the said petition.

5.I have heard the learned counsel appearing for the petitioner.

6.In view of the above, this Court finds that if the petitioners herein are having any grievance, they should have filed the petition at the earliest, whereas they stated that pending of the case came to know only in the year 2018. Further they are not at all necessary parties in the present suit and the trial Court has observed the same. On perusal of the earlier proceedings and also the relief sought for by the 1st respondent/plaintiff in the present suit, it is observed that the petitioners herein have not stated anything about how they are necessary parties in the said suit and what way they aggrieved by not adding themselves as necessary parties in the suit.



7. In the result, this Court does not interfere with the order passed by the trial Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar (CS)

msa

To

1. The District Munsif, Bodinayakanur.

2. The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai. (2 COPIES)

CRP (MD) (PD) .No. 418 of 2019

and

C.M.P (MD) .No. 2067 of 2019

15.03.2019

TR (22.04.2019) 3P 4C