



A.Nos.2319 & 2320 of 2022
in
C.S.No.56 of 2022

C.V.KARTHIKEYAN, J.

These two applications have been filed seeking a direction against the tenant who is running a hotel in the suit property from paying any rent to the 1st defendant, who according to the plaintiff is collecting the monthly rents for a further restraint that no further lease agreement should be entered into without the participation of the plaintiff.

2. The plaintiff had filed the suit seeking partition and separate possession of the suit mentioned properties.

3. It is claimed that in the suit schedule properties, a hotel is being run and the rents from the hotel is being collected by the 1st defendant. It is stated by the plaintiff that such rent should be deposited into the Court. It is for that particular purpose, A.No.2319 of 2022 has been filed.

4. The plaintiff had also filed another application in A.No.2320 of 2022, seeking a direction that if at all, any fresh lease agreement is entered into, the plaintiff must be a party to such lease agreement.

5. Unfortunately, a perusal of the plaint shows, that the suit has been filed for partition of the properties alone and there is no relief sought either with respect to the rental amounts received or with respect to mesne profits, either past, present or future. This would also include not just mesne profits for use of an occupation but also the profits gained by leasing out the properties in this case, by the 1st defendant.



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ssi

6. Therefore without entering into any discussion on the merits of these applications, holding both the applications as on date as not maintainable, these applications are dismissed.

7. This does not mean that the plaintiff would not have liberty to seek any further relief but, it would always be appropriate that the applications are filed on amendment of the plaint seeking appropriate reliefs.

6. Registry may examine the date of service of suit summons on the defendants and if, within the stipulated period written statement had not been filed, then, list the matter under the caption “undefended board”.

05.09.2022

ssi

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