



CRP. No.3688 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

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S.Mahendran

...Petitioner/Petitioner/plaintiff
Vs.

1.Tmt. Pushpa
2.Gopi @ C.S. Gopinathan
3.Tmt. Umayal
4.Tmt.Rithanya @ Sandhya
5.Tmt.Selvarani

....Respondents/Respondents/Defendant

PRAYER: This Civil Revision Petition is filed under Section 115 of CPC prayed to set aside order and decreetal order dated 30.09.2019 made in I.A No. 1 of 2019 in O.S No. 53 of 2015 on the file of Principal District Judge, Krishnagiri.

For Petitioner : Mr.R.Veeramani

For R1, R2, R4

R5 : Mrs.Chitra sampath Senior Counsel
for Mr.T.S. Baskaran



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ORDER

This Civil Revision petition has been filed to set aside order and decreetal order dated 30.09.2019 made in I.A No. 1 of 2019 in O.S No. 53 of 2015 on the file of Principal District Judge, Krishnagiri.

2. The Revision Petitioner herein is the plaintiff in suit O.S No. 53 of 2005 on the file of the Principal District Judge, Krishnagiri, filed for relief of partition against the defendants who are brothers and brother's wife they denied the claim of the plaintiff. Thereafter the Trial Court framed issues, on the side of the plaintiff four witness were examined and on the defendants' side D.W.1 to D.W.4 were examined and thereafter evidence were closed and after that the plaintiffs filed I.A No. 1 of 2019 in O.S No.53 of 2015 seeking to examine the list mentioned witness and to reopen the case for the purpose of summoning the witness to produce documents and give evidence to prove the association with the second defendant and the same was objected by the defendant contended that after closing evidence the petitioner filed this application to drag on the proceedings in order to



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prevent the defendant from getting the fruits of the case. Further he contended that the plaintiff sought for details of accounts belongs to the second defendant wife/Selvarani and the other parties relating to the property such as Yogewar Silk mills, Sri Balaji Silk Mill and Sri Ambaji Silk Mills, which closed prior to 2016. On considering rival submissions, the Trial Court concluded that the plaintiff is not entitled to summon those parties and also the documents sought by the petitioner are personally belongs to the second defendant. Hence, dismissed.

3. Challenging the said findings this Civil Revision petition was filed by the plaintiff.

4. The learned counsel for the petitioner submitted that in respect of B schedule property to prove his claim he want to reopen the case and summon the list of documents as mentioned in the application through bank manager. Further he contended that B schedule property was purchased in the name of the second defendant by utilizing income of the plaintiff except textile business at Gujarat and Hyderabad he had no source of income hence want to summon the some more witness and reopen the case but without



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appreciating the fact the Trial Court dismissed the application in I.A No. 1 of 2019 in O.S No.53 of 2015. Hence, he prays to set aside the same.

5. The learned counsel for the respondent strongly objected the said application by the petitioner submitted that already P.W.1 was cross examined in which he categorically admits that he was not in business relationship with brother/second respondent nor he had partnership with the brother. Furthermore, he also admits that he has not given any written partnership deed with the second defendant, having admitted the above he is not entitle to summoning the documents which are relating to the personal accounts of second respondent and his wife. Hence, she prays to dismiss the same.

6. On perusal of records, it reveals that the petitioner sought the documents of the second defendant's company. Admittedly, it is not partnership firm, as per deposition of P.W.1 during cross examination petitioner admits that he has no partnership with the second defendant nor he produced any material to show that he is having banks transaction with the second defendant but he deposed since because both of them brothers



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they have no written documents. On perusal of the application, the list of documents sought by the petitioner is particularly related with second defendant which is personal document of the second defendant hence he is not entitle for summon those documents . Therefore, the reason assigned by the petitioner is not satisfactory, besides objection raised by the respondent also acceptable one. This Court does not find any reason to interfere with the order passed by the Trial Court in I.A No. 1 of 2019 in O.S No. 53 of 2015. Further, the Trial Court is directed to dispose the case within six months from the date of receipt of a copy of this Order.

7. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

31.10.2022

Pbl

To

1.The Principal District Judge, Krishnagiri.



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T.V.THAMILSELVI,J.

Pb1

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