



A.No.1062 of 2021

A.No.1062 of 2023
in C.S.No.43 of 2019

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K.KUMARESH BABU,J.

This instant Application has been filed by the applicants/defendants to receive the additional documents mentioned in the schedule.

2.The case of the petitioner is that the present suit has been filed by the respondents seeking for a decree of partition and for separate possession and for a permanent injunction. The said suit have been contested by the applicant denying various allegations made in the plaint. He would submit that in the written statement it has been specifically averred that an oral partition had already taken place and that pursuant to the oral partition, the applicant had purchased two plots measuring 1800 sq.ft in favour of the 2nd and 3rd respondents herein in 2011 itself. He would submit that he was not in a position to file the said document along with the written statement and therefore, he obtained a certified copy and is now seeking to file the same along with the encumbrance certificate. He would submit that a perusal of the above document would clearly narrate the fact that the same made in favour of myself and 3rd respondent herein



A.No.1062 of 2021

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would amply prove the oral partition between themselves. Therefore, he seeks leave of this Court to receive the documents mentioned in the Judge's summons and permit him to mark the above documents.

3.Mr.D.Abdullah, learned counsel for the respondent/ plaintiff would stoutly contest the claim made by the applicant. He would submit that there was no oral partition between the parties and he would further submit that the document sought to be marked is not a relevant document to be claimed in the suit and that the said document also do not at any stretch of imagination would be a proof for the oral partition which the applicant is allegedly claiming to prove by production of the said document.

4.Heard the counsels appearing on either side and perused the materials available on record before this Court.

5.The claim of the applicant is that to prove the oral partition, it is necessary to mark the said document mentioned in the schedule. I have perused the document which is listed as the 1st item to the list of documents. A perusal of the said document does not disclose the fact that



A.No.1062 of 2021

there are no recitals where oral partition between the parties to the suit is referred as claimed by the applicant. When the recitals in the said document do not speak about the oral partition, I am afraid that the claim made by the applicant that the said document would amply through the oral partition is without any merits. The encumbrance certificate of the said property under the said document, in such circumstances would not also be of any help to the applicant herein.

6.In fine, the application is dismissed. However, there shall be no order as to costs.

30.03.2023

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