A.No.3209 of 2023
in
C.S.No.252 of 2021

K.KUMARESH BABU, J.

The instant application had been moved by the first defendant in the suit seeking to implead the proposed 10th and 11th respondent as the 8th and 9th defendant in the suit.

2. Mr.K.Mohan, learned counsel appearing on behalf of the applicant would submit that certain properties had been purchased by the father of the applicant to the respondents 1 to 4 in favour of the proposed 10th and 11th respondents herein and the said properties are also being included in the suit schedule properties. Therefore, it would be only imperative that they be impleaded as defendants to the suit.

3. Mr.N.C.Ashok Kumar, learned counsel appearing on behalf of the respondents 1 to 3 would submit that the proposed respondents are neither proper nor necessary party to the suit.

4. He would submit that only upon reply to the counter claim made by the applicant herein, the applicant is now seeking to implead the 10^{th} and 11^{th} respondents as party defendants to the suit.

5. He would further submit that the intention in filing this application is only to delay the proceedings in the Civil Suit and thereby, the applicant herein could enjoy the possession over the suit schedule properties. Therefore, he would pray this Court to dismiss this application.

6. Mr.B.Viveka Vanan, learned counsel appearing for the proposed 10^{th} and 11^{th} respondents would submit that it is false on the part of the applicant to claim that the father of the applicant and the respondents 1 to 4 have bestowed certain properties in their favour.

7. He would submit that the suit schedule properties are all self acquired properties of the father of the applicant and respondents 1 to 4 and that they are not the sharers of the said properties and therefore, they would not be a proper and necessary parties to the suit.

8. He would further submit that the business namely Standard Bakery and Sivanthi Sweets have been carried on by him in his individual capacity and they had not formed by the joint family, as it has not been started by the applicant's father. Therefore, he would submit that the application to be dismissed.

9. I have considered the submissions made by the respective counsels appearing on either side.

10. The proposed 10^{th} and 11^{th} respondents herein are the husband and daughter of the third respondent, who is the third plaintiff in the Civil Suit. Various allegations have been made by the applicant that the Standard Bakery and Sivanthi Sweets have been jointly managed by himself and the 10^{th} respondent herein and that it was only at the advice of his father namely B.Pandian, he had handed over the running and financial handling of the said firms in favour of the 10^{th} respondent.

11. He had also made various allegations as regards to the advance paid in respect of the property leased in favour of the 11th respondent and also the payment of money for the purchase of the property in the name of the 11th respondent.

12. I am of the view that this issue could only by tried during trial and therefore, the proposed 10th and 11th respondents are proper and necessary parties to decide the entitlement of the plaintiffs and defendants 1 and 2. As regards to the properties owned by the late B.Pandian, who is the father of the plaintiffs and defendants 1 and 2.

13. In fine the application is ordered and the 10th and 11th respondent herein are impleaded as 8th and 9th defendant to the suit. The 8th and 9th defendants are directed to file their written statement within a period of four (4) weeks from the date of service of notice.

14. The plaintiffs are directed to carry out necessary amendments in the plaint within a period of two (2) weeks from today.

30.06.2023

rgm

Neutral Citation: Yes/No
Index :Yes/No
Internet : Yes/No

Note: Registry is directed to carryout the necessary corrections in the cause title

K.KUMARESH BABU, J.

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