



C.M.P.No.27295 of 2023
in W.A.No.SR138160 of 2023

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R. MAHADEVAN, J.

and

MOHAMMED SHAFFIQ, J.

(Order of the Court was made by R.MAHADEVAN, J.)

This petition has been filed by the petitioner/appellant to grant leave to file the above writ appeal against the order dated 01.02.2023 passed by the learned Judge, in W.P.No.25887 of 2022.

2. The learned counsel for the petitioner submitted that the petitioner herein is the owner of the the subject property by virtue of a sale deed dated 02.07.2015 bearing Doc.No.1833 of 2015 executed by S.Deenisha W/o.K.S.Samsudeen. He inducted the fourth respondent as tenant on 06.08.2015 and the first respondent / writ petitioner is the son of the fourth respondent. While so, based on the petition filed by the fourth respondent, the third respondent passed an order dated 01.09.2022 by directing the first respondent to hand over the chicken stall to his father / fourth respondent. Challenging the said order, the first respondent preferred the writ petition without impleading the petitioner herein as party respondent to the writ proceedings. When the writ petition came up for hearing, the sixth respondent has projected himself as owner of the subject property without disclosing the sale deed dated 02.07.2015 executed in favour of the petitioner. Accordingly, by order dated 01.02.2023, the writ petition came to be disposed of, by directing the Revenue Divisional Officer to examine the issue and give a finding within the time stipulated. Thus, according to the learned counsel, the



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petitioner is the proper and necessary party to the writ proceedings, however, the first respondent / writ petitioner preferred the writ petition, without adding him as party to the same; and that, the writ petition came to be disposed, without providing an opportunity of hearing to the petitioner. Thus, the learned counsel sought leave of this court to file the writ appeal as against the order passed by the learned Judge in the writ petition.

3. Considering the reasons stated in the affidavit filed in support of this petition and being satisfied with the same, this Court is inclined to grant leave to the petitioner to file the above appeal. Accordingly, this petition is ordered as prayed for.

[R.M.D., J.] [M.S.Q., J.]
28.11.2023

nsd



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