



A.No.3178 of 2024
in
C.S. No.213 of 2016

P.B.BALAJI.J.

The Application has been filed seeking a direction to amend the plaint, deleting Item No.11 of the suit schedule property, in view of the same being already partitioned amongst the parties vide registered Partition Deed dated 20.09.2010 in Doc.No.361 of 2010 and that some of the parties have already dealt with their respective shares.

2. I have heard Mr.S.Parthasarathy, learned Senior Counsel for Mr.A.K.Raghavulu, learned counsel appearing for the Applicants, Mr.T.Viswanatha Rao, learned counsel for the first respondent/plaintiff and Mr.P.Raja, learned counsel for the respondents 3 to 6 & 8.

3. The learned Senior Counsel, Mr.S.Parthasarathy, would submit that one of the items of suit property viz., Item No.11 is no longer available for partition since the parties have already entered into a registered Partition Deed even as early as on 20.09.2010 and had it registered in document No.361/2010. He would further submit that subsequent to the said partition, three of the share holders have also sold their shares in the properties, in fact, even before the suit came to be filed.



would submit that he has no objection for this Application being ordered.

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5. However, Mr.P.Raja, learned counsel for the respondents 3 to 6 & 8 would submit that the Applicant is the second defendant in the suit and he had filed an injunction Application in OA. No.894 of 2016 including Item No.11 and an Application to modify the interim order relating to Item No.11 was also opposed by the Applicants. Mr.P.Raja, learned counsel would submit that the Applicants having obtained an injunction even in respect Item No.11 and having prevented the other respondents from alienating the properties, only after relevant questions had been put to him in cross examination, has come up with the preset Application. According to him, this Application is not bonafide and therefore taking into account the conduct of the Applicants, the Application has to be necessarily dismissed.

6. I have paid my anxious consideration to the submissions advanced by the learned counsel on either side.

7. It is to be noted at the outset, the present Application for deletion of Item No.11, is at the instance of the second defendant. The first respondent/plaintiff has expressed no objection for the said deletion request made by the second defendant. The objection is only at the instance of the co-defendants who have a grievance with regard to the Application filed by the



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present Applicant in the injunction Application in OA. No.894 of 2016 including Item No.11 in the said Judges Summons. Further, it was contended that despite an attempt to modify the interim order pertaining to Item No.11 taken out by these contesting respondents herein, even the said Application was opposed tooth and nail. In fact, even OSA No.317 of 2017 was filed and all along the Applicant has been opposing any move to delete Item No.11 and suddenly when the suit is in a part heard stage viz., at the stage of cross examination, the present Application has been filed. It is not in dispute that in and by the Partition Deed dated 20.09.2010, duly registered at SRO, Pammal in Doc.No.361/2010, the Item No.11 of the said schedule property has already been partitioned amongst the parties. It is also not in dispute that some of the sharers have also dealt with their respective shares accruing under the said Partition Deed. Though the respondents 3 to 6 & 8 are contesting the present Application only on the ground of the conduct of the first Applicant/second defendant, there is no denial of the factum of the Partition Deed having been executed and registered in respect of the particular Item No.11.

8. If at all, the conduct of the first Applicant/second defendant is to be considered, the same can always be agitated by the respondents 3 to 6 & 8, at

P.B.BALAJI, J.



partitioned, it is no longer necessary for the said item to remain as one of the items in the Schedule. Moreover, the learned counsel for the plaintiff/first respondent who has come before this Court seeking partition has expressed his no objection for deletion of the said Item No.11.

9. For all the above reasons, I see no useful purpose in not permitting the deletion of Item No.11 from the said schedule property. However considering that the Application is at the instance of the second defendant, necessary amendments to the plaint shall be carried out only by the learned counsel for the plaintiff.

10. In view of the above, this Application is allowed and the learned counsel for the plaintiff shall carry out the amendment and file an amended copy of the plaint within a period of two weeks.

02.08.2024

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