



C.R.P(MD)No.824 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.824 of 2018

and

C.M.P(MD)No.3647 of 2018

Johnson

... Petitioner/Petitioner/
Plaintiff

Vs.

1.S.P.Spining Mills,
Represented through its,
Managing Director,
No.34, Arunachalam Asari Street,
Register Office, Salem Town,
Salem District.

2.Dhanaraj

3.David Ravi

Welinton (Died)

4.Sekar

5.Selvarani

6.Ponnammal

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7.Premier Politratics Limited,
Represented through its,
Managing Director,
No.185, A.T.T. Street,
Race Course,
Coimbatore-18.

... Respondents/Respondents/
Defendants

(Memo, dated 18.01.2024 presented before the Court on 18.01.2024, is recorded, to the effect that respondents 2 to 7 are exonerated as they were set ex parte before the Court below, vide Court order, dated 18.01.2024 made in C.R.P(MD)No.824 of 2018)

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 27.02.2018 made in I.A.No.817 of 2018 in O.S.No.187 of 2010 on the file of the Additional District Munsif Court, Valliyoor.

For Petitioner : Mr.A.Arumugam

For R-1 : Mr.S.Palanivelayutham

R-2 to R-7 : *Ex parte*



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ORDER

The plaintiff in a suit for partition is the revision petitioner herein.

2. The present revision petition has been filed challenging an order passed in I.A.No.817 of 2018, wherein the Trial Court had rejected the request of the petitioner to amend the plaint for incorporating a prayer for declaring a document, dated 08.08.1995 as not binding upon the plaintiff.

3. A perusal of the plaint indicates that the plaintiff was aware of the said document, even on the date of filing of the suit in the year 2010. The said document has been pointed out by the defendants in paragraph No.6 of the written statement. That apart, the said document, dated 08.08.1995 is said to have been executed by defendants 2 to 7 in favour of the first defendant with regard to items 1 to 6 of the suit schedule property. Admittedly, the petitioner is not a party to the said document. Therefore, the question of seeking to set aside the said document or seeking a declaration that it is not binding upon him, does not arise. Even



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without such a prayer, in case if the plaintiff is able to establish that the suit schedule properties are joint family properties and his share has been alienated without his consent, he can very well get along with the suit for partition.

4. In view of the said facts, there are no merits in this Civil Revision Petition. This Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

03.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1.The Additional District Munsif Court,
Valliyoer.

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2. The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.824 of 2018

03.04.2024