

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DINDIGUL.

PRESENT : **THIRU. A.K. MEHBUB ALI KHAN, B.L.M., LL.M.,**
PG.D.PM/IR.,

ADDITIONAL DISTRICT JUDGE, DINDIGUL.

Wednesday, the 18th Day of October 2023

I.A. Nos.3/2023 & 4/2023

-in-

O. S. 56/2022

I.A. No.3/2023 :

B.S.R.Babulal

... Petitioner/Plaintiff

-Vs-

Dr.Chitra Priyadharshini @ Bhavani Ganesan

... Respondent/defendant

and

I.A. No. 4/2023 :

B.S.R.Babulal

... Petitioner/Plaintiff

-Vs-

Dr.Chitra Priyadharshini @ Bhavani Ganesan

... Respondent/defendant

These two petitions coming on 10.10.2023 before me for hearing commonly in the presence of Thiru.S.Harihararamachandran, Advocate for the petitioner in both the I.A Nos.3/2023 and 4/2023 and of Thiru. P.Ganesan, Advocate for the

Respondent in both the I.A Nos.3/2023 and 4/2023 and after having heard the arguments of both sides and on perusal of records this Court delivers the following :

COMMON ORDER

1. Since the facts relevant to decide both the petitions are common, they are disposed off by this common order.

2. Petition in I.A. No.3 of 2023 is filed by the petitioner/Plaintiff U/O 18, R 17 C.P.C

3. Petition in I.A.NO.4 of 2023 is filed by the petitioner/plaintiff under O.7, Rule 14 C.P.C.

4. **Facts relevant for these petitions:**

The petitioners in both the petitions is the plaintiff in the suit. He has filed the suit for partition of ½ share and injunction not to alienate. The defendant has filed written statement claiming that this petitioner did not have sufficient means to purchase the properties at the time of purchase of suit properties. Therefore, in order to prove that he had sufficient sources to purchase the suit properties, he has

filed additional document in this case now. Therefore, he has prayed to receive the additional document filed along with the petition in I.A.No.4/2023.

5. Similarly, he has stated that since he has to furnish additional document to prove that he had sufficient sources of income to purchase the suit properties, he has to be recalled so as to mark the said document now filed. Hence, he has prayed to recall P.W.1 and examine him so as to mark the document. Therefore, he prays to receive the additional document filed along with the petition in I.A.No.4/2023 and to recall P.W.1 to mark the same in I.A.No.3/2023.

6. The respondent in both the petitions is the defendant in the suit. The plaintiff has not stated anywhere in the plaint or in his proof affidavit that the suit properties were purchased by him. Only after the filing of written statement and the cross examination of P.W.1 the petitioner has come forward with additional documents in his support. The suit properties were purchased in the year 1996-2011 by Dr. Ganesan. Hence, in order to prove that he had sufficient income to purchase the properties, the income tax statement of the current year will not be of any use. In order to get over the lacuna in his evidence, he has filed these petitions

to fill up those lacuna. If the petitions are allowed, great difficulties and irreparable loss would be caused to the respondent. Hence she prays to dismiss both the petitions.

7. Heard the arguments of both sides.
8. The points to be determined in these petitions are **Whether these petitions are to be allowed ?**

9. **Point:**

Admittedly the suit is filed by the plaintiff for partition of $\frac{1}{2}$ share claiming that the suit properties were purchased jointly by the plaintiff and Dr.Ganesan using the income of the plaintiff. Trial has commenced and the plaintiff was examined as P.W.1 and was also cross examined. P.W.2 was also examined on the side of the plaintiff and he was also cross examined. While so, the plaintiff has filed these petitions to file the additional document and to recall him to mark the said additional document.

10. This petitioner/plaintiff has filed the income tax return acknowledgement and connected records for the assessment year 2023-2024 corresponding to the

accounting year ended on 31.3.2023. Except this income tax returns, filed on 31.3.2023, no other documents are filed by plaintiff. It is pertinent to note that the properties that are subject matter of this suit were purchased on 30.5.1996, 8.7.1999 and 12.9.2011. The plaintiff has claimed that he had sufficient income to purchase the said properties. Therefore, he has to prove that he had sufficient income during the said years namely 1996, 1999 and 2011, whereas the plaintiff has filed the income tax returns for assessment year 2023 - 2024. This income tax returns for the current year is of no use to establish that the plaintiff had income during the relevant years namely 1996, 1999, 2011. However, in the said returns, he has mentioned the suit properties in the details of assets. This is in no way helpful for the plaintiff to prove that he had sufficient income during the relevant years.

11. Therefore, the document namely income tax returns for the year 2023-2024 now filed as additional document will not be useful for the plaintiff to prove his income during the earlier period. Therefore, no purpose would be served even if this document is received in the evidence. Further, the plaintiff has prayed to recall himself to be examined again so as to mark this additional document. Since it is held that the income tax returns of the year 2023-2024 will not serve any purpose,

and that it need not be received in evidence, there is no necessity to recall P.W.1 for marking the said document.

12. Hence, in view of the discussion made above, it is held that both the petitions are not maintainable and they deserve to be dismissed. This point is decided accordingly.

In the result, this petition in **I.A.3/2023** is dismissed without costs.

In the result this petition in **I.A. No.4/2023** is dismissed without costs.

Dictated to stenographer, taken down and transcribed by her in computer, corrected and pronounced by me in open court on this the 18th day of October 2023.

Additional District Judge,
Dindigul.

