

IN THE COURT OF DISTRICT JUDGE, MAYILADUTHURAI.**Present: Tmt.R.Vijayakumari, B.A., M.L.,****District Judge, Mayiladuthurai.****Monday, the 9th day of December 2024.****I.A.No. 03/2024 in****O.S.No.02/2019**

Ramesh

. . . Petitioner/ Plaintiff

Vs.

1.Chellappan

2.Lakshmi

3.Vasuki

. . . Respondents /Defendants

This petition is coming up before me on 07.12.02024 for final hearing in the presence of Thiru. K. Elaiyaraja advocate for the petitioner and Thiru.S.Balachandran Advocate for Respondents and upon hearing both side and considering the connected records and having stood over till this day for consideration this Court made the following

ORDER

This petition is filed under Sec. 151 of CPC to add 2-5 item of property in the suit.

1. The averments of petition affidavit in short:

The stage of the case is plaintiff side further evidence and the plaintiff came to know 1st defendant who is the father of the petitioner has executed settlement deed in favour of his daughter namely 3rd defendant and he has also purchased another item of property on 07.06.1985 from one Arukkani Ammal and others and both the facts came to the knowledge of him only in the year 2024 July and in that land he has sold out 10 cents remaining 55 1/2 cents are in his custody. Both the properties have to be added in the schedule of property to claim partition by the petitioner. Hence, those properties have to be added as 2-5 item of property in the suit. Hence petition to be allowed.

2. The averments of Respondents affidavit in short:

The property mentioned in Ex.A1, dated 08.08.1966 is the individual property of the 1st defendant since it was partition between the 1st defendant along with his brothers on 13.10.1941. Hence it is not joint family property and the petitioner has no right to claim partition in that property. Like wise the 4th item of the property purchased by the 1st defendant through Doc. No. 749/1985 on 07.06.1985, hence it is also the independent property of the 1st defendant Cellappan and in that property also the petitioner has no right to claim partition. Hence, petition to be dismissed.

3. The points for determination is:

Whether the petitioner is entitle for the prayer as sought for?

4. Point:

(4.1) The petitioner counsel argued that the stage of the case is plaintiff side further evidence and the plaintiff came to know 1st defendant who is the father of the petitioner has executed settlement deed in favour of his daughter namely 3rd defendant and he has also purchased another item of property on 07.06.1985 from one Arukkani Ammal and others and both the facts came to his knowledged only in the year 2024 July and in that land he has sold out 10 cents, remaining 55 1/2 cents are in his custody. Both the properties have to be added in the schedule of property to claim partition by the petitioner. Hence, those properties have to be added as 2-5 item of property in the suit. Hence petition to be allowed.

(4.2) The respondent counsel argued that the property mentioned in Ex.A1, dated 08.08.1966 is the individual property of the 1st defendant since it was partition between the 1st defendant along with his brothers on 13.10.1941. Hence it is not joint family property and the petitioner has no right to claim partition in that property. Like wise the 4th item of the property purchased by the 1st defendant through Doc. No. 749/1985 on 07.06.1985. Hence it is also the independent property of the 1st defendant Cellappan and in that property also the petitioner has no right to claim

partition. Hence, petition to be dismissed.

(4.3) Both side argument along case records perused. On perusal of case records the stage of case is plaintiff side further witness and the plaintiff himself filed this petition to add the properties mentioned in the petition stating that he came to know regarding the properties of the 1st defendant in the month of July 2024. And it is the objection raised by the respondent/defendant that those those properties are the self acquired and independent property of the 1st defendant and the petitioner has know rights to claim partition in those properties and on perusal of case records the stage of case is plaintiff side further witness and at this juncture this petition is filed by the petitioner/plaintiff whether the properties are joint family properties or self acquired and independent properties of 1st defendant can be decided at the time of trial after examination of both side witnesses and marking of document. The petitioner / plaintiff has filed this petition belatedly after commencement of trial. Considering the same this petition will be allowed on payment of cost of Rs.500/- to the 1st defendant and to allow this petition and filed cost memo to that effect without fail on 17.12.2024.

In the result, this petition will be allowed on payment of cost of Rs.500/- to the 1st defendant to allow this petition on or before 17.12.2024 and to file cost memo to that effect without fail on that date.

Dictated to the steno-typist, transcribed and typed by her with the help of voice recorder in computer and corrected and pronounced by me in the open Court today this the 9th day of December 2024.

Sd/- R. Vijayakumari.
District Judge,
Mayiladuthurai.

Order: (Fair & Draft)
I.A. No.3/2024
in
O.S.2/2019
Dated: 09.12.2024