

I.A.No.10/2024

in

O.S.No.2/2023

D.D.03.12.2024:

Order Pronounced.

This application is filed by the petitioner/plaintiff to add the properties purchased by the 1st defendant on 04.07.2011 in his name and the properties purchased on 26.04.1999 and 15.11.2019 in the name of the 6th defendant who is the wife of the 1st defendant. The petitioner contended that these properties purchased out of the joint family income.

2. The respondents/defendants 6- 9 contended that the properties are not purchased from out of the joint family income and there is no property which is yielding income to purchase the properties and the 1st defendant is also not a kartha of the family and the properties were purchased out of his own income which he earned by working as an appraiser in Canara Bank and by doing real estate business in his name and his wife's name. Therefore, the properties cannot be

deemed as a joint family properties. Further, according to the respondents/defendants, the suit was filed in the year 1994 and which was decreed exparte in the year 1996 and thereafter the exparte decree was set aside by the 1st defendant and 6th defendant. Only after passing of the decree, the properties were purchased by the 1st defendant in his name and his wife's name. Therefore, it cannot at any stage of imagination be presumed that these properties were purchased out of the joint family income. Therefore, this petition has to be dismissed.

3. The perusal of documents filed and records of the case, it is clear that the suit was filed in the year 1994 and exparte decree was passed in the year 1996. The properties alleged to have been included in the suit as "C" schedule was purchased in the year 1999 and 2019 after passing of the exparte decree in the suit. Further some of the properties stands in the name of

the 6th defendant who is the wife of the 1st defendant and the properties in the name of female member cannot be presumed to be a joint family property unless, it is proved. Here after the decree of the suit, these properties were purchased. Therefore, it is clear that the properties mentioned in the petition to be added as C schedule in the suit itself shows that the properties do not belong to the joint family. Therefore, the contention raised by the defendants is sustainable and the petitioner cannot seek to include all the properties purchased in the name of the 1st defendant and 6th defendant as C schedule property considering it as joint family property. Therefore, this petition has to be dismissed.

5. In the result, this petition is dismissed. No cost.

Principal District Judge,
Perambalur.

