

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

CRP.No.47 of 2014

and

M.P.No.1 of 2014

1.M/s.Shiv Machine Tools rep.

By its Managing Partner,

Vijay V.Shah

Old No.67, New No.102,

Armenian Street,

Chennai 600 001.

2.Vijay V.Shah

.. Petitioners

Vs.

1.M/s.Metal Forms Pvt.Ltd. Rep.

Its Director Rajiv parthasarathy

" Govind Nilayam" , No.23,

Karpagambal Nagar,

Mylapore, chennai-4.

2.M/s.Mankoo Machine Tools Pvt, Ltd.

No.678, Industrial Area B,

Ludhiana 141 003

..Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and Decreetal Order dated 07.12.2013 passed in I.A.No.1394 of 2013 in O.S.No.3347 of 2006 on the file of XIII Assistant City Civil Court, Chennai.

For petitioners : M/s.S.Natarajan

For R1 : Mr.R.Bharath Kumar

For R2 : Mr.M.Balasubramanian

ORDER

The petitioner who is the defendant in O.S.No.3347 of 2006 on the file of XIII Assistant City Civil Court, Chennai, a suit seeking recovery of money, has moved I.A.No.1394 of 2013 towards impleading a third party as party defendant in the suit.

2.In dismissing such application, the Court below, taking note of the stage of the suit viz, that in an action of the year 2006, the defendant had moved an application to reopen the evidence and the case was posted for further cross examination of P.W.1 has observed as follows:

3.On a careful reading of plaint and the written statement, it appears then the petitioner/defendant would take a defendant that the proposed party is the necessary party and it was filed during 2006. Even after passing of 7 years the respondent/plaintiff has not taken any steps to implead the proposed party as second defendant in the suit. Having failed to implead the proposed party in the suit should face the consequences of non-joinder necessary party even after pleading the same in the written statement. The petitioner being a defendant need not worry to protect the interest of the plaintiff. It appears from the records that the petitioner/defendant put lot of effects

to prolong the matter by filing petitioner after petition.

4. If it is true that the proposed party is the cause for the delay and loss in respect of the business transaction arose between the petitioner/defendant by the respondent/plaintiff defiling this Court will not put the petitioner/defendant is trouble by passing the judgment and decree, if the petitioner/defendant able to prove the same in the trial.

3. Finding no reason to interfere with the order of the court below, the Civil Revision Petition shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.07.2016

Index : Yes/No
Internet : Yes/No
kkd

To

XIII Assistant City Civil Court,
Chennai.

C.T.SELVAM, J

kkd

Civil Revision Petition (PD) No.47 of 2014
and M.P.No.1 of 2014

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