

HON' BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION No.6363 of 2016

Dated: 30.12.2016

Between:

M/ s. Kalathil Brothers Constructions Company
Pvt. Ltd., and others

.. Petitioners

and

M/ s. Rosy Enterprises Firm
rep. by its Managing Partner,
Baraja Kishore Das.

.. Respondent

Counsel for the Petitioners : Mr. G.Rama Gopal

Counsel for the Respondent : Mr. M.Radhakrishna



The Court made the following:

ORDER:

This Civil Revision Petition arises out of order dated 27.10.2016 in I.A.No.842 of 2016 in O.S.No.341 of 2013 on the file of the XIII Additional District Judge at Gajuwaka.

I have heard the leaned counsel for the parties and perused the record.

The respondent has filed the aforementioned suit for recovery of a sum of Rs.32,26,615/- along with subsequent interest @18%per annum on Rs.24,23,219/- against the petitioners, who are a Company incorporated under the Companies Act and its Directors. The petitioners filed I.A.No.842 of 2016 under Order 1 Rule 10 (2) of C.P.C. for striking off petitioner Nos. 2 to 4 from the suit on the ground that they are not personally liable for the debt claimed by the respondent and, therefore, they are neither necessary nor proper parties to the suit. The Court below, however, rejected the plea of the petitioners and dismissed the I.A.

Ordinarily, the plaintiff being the dominant litus is entitled to choose the parties against whom he would like to proceed in civil proceedings. However, in case of misjoinder of parties, the Court is empowered to direct striking out their names. In the instant case, petitioner Nos.2 to 4 are Directors of petitioner No.1 -Company and, therefore, it cannot be said that they are strangers to the litigation and their presence in the suit proceedings has no relevance at all. Even if they are not necessary parties, they may be proper parties, as they have been the Directors of petitioner No.1-Company. At any rate, mere impleadment of parties to the suit does not in any manner cause prejudice to their interests, as a discretion always lies with them either to contest the suit or not. As observed by the lower Court, by their mere impleadment, the petitioners will not be liable to suffer a decree unless the

respondent/plaintiff satisfies the Court that it is entitled to secure a decree against them also.

Having regard to the above discussion, I am of the opinion that by dismissing I.A.No.842 of 2016, the lower Court has not committed any jurisdictional error.

The Civil Revision Petition is accordingly dismissed.

As a sequel to dismissal of this revision, CRPMP.No.8348 of 2016 filed for interim relief stands dismissed as infructuous.

JUSTICE C. V. NAGARJUNA REDDY

30-12-2016
v v

