



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2017

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

C.R.P.PD(MD)No.2654 of 2016

and

C.M.P. (MD)No.12469 of 2016

J.Malarvizhi ... Petitioner / Petitioner / Defendant

Vs.

1.S.Vetriselvan ... Ist Respondent / Respondent / Plaintiff

2.Indrani

... 2nd Respondent / Proposed defendant /
3rd party

Prayer: The Civil Revision Petition has been filed under Article 227 of the Constitution of India, challenging the order dated 18.10.2016 in I.A.No.1080 of 2015 in O.S.No.71 of 2015 passed by the VI Additional District Judge, Madurai wherein the court below dismissing the interim application filed by the petitioner / defendant under Order 1 Rule 10(3) and Section 151 of C.P.C. to implead the 2nd respondent as party to the suit.

For Petitioner : Mr.N.Sathish Babu

For Ist Respondent : Mr.M.Sarangan

ORDER

This Civil Revision Petition is filed challenging the order dated 18.10.2016 in I.A.No.1080 of 2015 in O.S.No.71 of 2015 passed by the VI Additional District Judge, Madurai.

2.The petitioner is the defendant in the suit in O.S.No.71 of 2015. The 1st respondent filed the suit for recovery of money. The petitioner filed an application in I.A.No.1080 of 2015 to implead the 2nd respondent herein as the 2nd defendant. According to the petitioner, she gave a signed blank promissory note to the 2nd respondent and he handed over the same to the 1st respondent and by misusing the said promissory note, the 1st respondent has filed the suit in collusion with the 2nd respondent. Therefore, the 2nd respondent is necessary party to the suit filed by the 1st respondent against the present revision petitioner.

3.The 1st respondent has filed a counter statement opposing the said application and stated that the 2nd respondent is not necessary or proper party to the suit. The 2nd respondent is the close relative of the petitioner and when 1st respondent filed the application in I.A.No.330 of 2015 for attachment of property



before judgment, the 2nd respondent offered her property as security on behalf of the revision petitioner and therefore, she prayed for dismissal of the said application.

4. The learned Judge considering the averments made in the affidavit, counter affidavit and materials on record and also judgment of this Court, dismissed the application holding that the 2nd respondent is not necessary party and it is for the plaintiff to decide the person against whom he claim relief. Against the said order the present Civil Revision Petition is filed.

5. The learned counsel for the petitioner submitted that the learned Judge failed to consider the ingredients of Order 1 Rule 10 of C.P.C. The learned Judge ought to have seen that the 2nd respondent has given a complaint against the 1st respondent before Karimedu Police Station, and the 1st respondent agreed to settle the loan availed from her. The learned judge failed to consider the contention of the petitioner that he gave a blank signed promissory note to the 2nd respondent and the 1st respondent in collusion with the 2nd respondent filed the suit for recovery of money.

6. The learned counsel for the first respondent / caveator submitted that the 2nd respondent is not necessary or proper party to decide the issue in question. The allegation of the petitioner that the blank signed promissory note given to the 2nd respondent had been misused by the 1st respondent in collusion with the 2nd respondent to file suit is baseless. The petitioner has taken contradictory stand that the 2nd respondent has given complaint against the 1st respondent before Karimedu Police Station and at the same time, the respondents are colluding and filed the suit. The 2nd respondent is the close relative of the petitioner and she has offered her property as security on behalf of the petitioner in the petition in I.A.No.330 of 2015 for attachment before judgment and hence, prayed for dismissal of the Civil Revision petition.

7. Heard the learned counsel for the petitioner and perused the materials on record.

8. It is for the plaintiff / 1st respondent to implead any person against whom he seek such a relief. At the same time, the Court has power to implead any person either as plaintiff or defendant in order to decide the issue in the suit. A person to be impleaded as a party to the suit must be either necessary or proper party in order to decide the suit and to avoid multiplicity of proceedings.



9. In the present case, the petitioner seeks to implead the 2nd respondent as 2nd defendant on the ground that she gave blank signed promissory note to the 2nd respondent and he in collusion with the 1st respondent misused the same to file the suit by the 1st respondent. At the same time, petitioner has stated that the 2nd respondent has given complaint against the 1st respondent before Karimedu Police Station and the said complaint was enquired and the 1st respondent gave an undertaking to settle the due to the 2nd respondent. The petitioner has also not disputed the averments of the 1st respondent that the 2nd respondent is the close relative of the petitioner and offered her property as security in the application filed by the 1st respondent for attachment before Judgment in I.A.No.330 of 2015.

10. The learned Judge considered all the facts as well the judgment of this Court and dismissed. There is no illegality or irregularity in the order passed by the learned Judge warranting interference of this Court. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected C.M.P. is closed.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

The VI Additional District Judge, Madurai.

+1 CC to M/s.M.SARNGAN, Advocate, SR No.722

+1 CC to M/s.N.SATHISH BABU, Advocate, SR No.386

NBJ

PSM/SV-MMS/09.02.2017/3P/4C

C.R.P.PD(MD) No.2654 of 2016
03.01.2017