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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) .No.34 of 2018

and

C.M.P. (MD) Nos.116 & 5979 of 2018

C.Dilip Kumar

... Petitioner/Plaintiff

Vs.

1. L.Rani
2. C.Ashokan
3. L.Beena
4. L.Latha
5. Babu Rajendran
6. Madhusoodhanan Nair @ S.Mani

... Respondents/Defendants 1 to 4
and Additional Proposed
defendants 5 & 6

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.323 of 2017 in O.S.No.25 of 2017, dated 31.10.2017 on the file of the learned District and Sessions Judge, Kanyakumari District at Nagercoil.

For Petitioner

: Mr.S.Titus

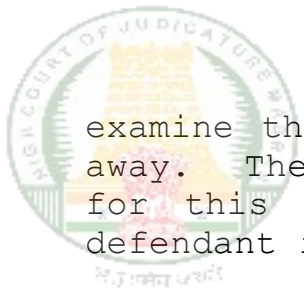
For R-1

: Mr.K.Shajahan

O R D E R

The Revision petitioner herein is the plaintiff in O.S.No.25 of 2017 on the file of the learned District and Sessions Judge, Kanyakumari District at Nagercoil. It is a suit for accounts. In the said suit, the first defendant filed I.A.No.323 of 2017 for impleading two persons. One of them is her husband and the other is the Manager of the Auditorium in question. The Court below allowed the said application. Questioning the same, this Civil Revision petition has been filed.

2. When the matter was taken up for hearing, it was submitted by the learned counsel appearing for the first respondent that the Manager who was sought to be impleaded is no more. This Court is of the view that the plaintiff as the dominus litus is entitled to choose those persons as defendants against whom he wants relief. The petitioner has not sought any relief against the proposed parties. Therefore, it is not open to the first respondent to seek to implead them in the suit. Of course, the first respondent can



examine them as witnesses. Since the Manager has already passed away. The first respondent can examine her husband as a witness for this purpose. There is no need to implead him as party defendant in the suit proceedings.

3. The order passed by the learned District and Sessions Judge, Kanyakumari District at Nagercoil, in I.A.No.323 of 2017 in O.S.No.25 of 2017, dated 31.10.2017, is set aside. The Civil Revision petition stands allowed.

4. At this stage, the learned counsel appearing for the first respondent points out that an application for appointing a receiver has been filed by the plaintiff which is pending disposal. The Court below is directed to dispose of I.A.No.100 of 2017 on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The District and Sessions Judge,
Kanyakumari District at Nagercoil.
2. The Record Keeper, V.R.Section, (2 copies)
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.Titus, Advocate Sr.No.84552

+1cc to Mr.K.Shajahan, Advocate Sr.No.84407

PMU

VB/SKN/SAR4/26.10.2018/2P/6C

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