

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM

THE HON'BLE MR. JUSTICE N.SATHISHKUMAR

CRP. (PD).No.2195 of 2016 and
C.M.P.No.11409 of 2016

N.Thillainathan ..Petitioner/Plaintiff
Vs.

1.Rajapandi ..Respondent / Defendant

2.Mrs.Stella ..Respondent/proposed respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal order dated 11.12.2015 in I.A.No.34 of 2015 in O.S.No.62 of 2012, on the file of the first Additional District and Session Judge, Coimbatore.

For petitioner : Mr.K.Selvakumar

For respondents : Mr.Sam Jayaraj Hosson for
M/s.Sarvabhauman Asso. for R1

O R D E R

The present civil revision petition has been filed against the order of the Trial Court in dismissing the application filed to implead the proposed party as one of the defendants.

2. The case of the revision petitioner is that he availed a loan from the defendant through one Stella. According to him, the entire transaction is a loan transaction. Though he paid the entire loan amount, instead of cancelling the loan agreement, the sale deed has been obtained by the first respondent. Therefore, a Suit has been filed for cancellation of sale deed dated 22.01.2009.

3. In the said circumstances, the plaintiff has filed an application to implead the said Stella as a necessary party in the Suit on the ground that the entire loan transaction gone through her. Therefore, her presence is necessary in the above

said Suit. The above application has been objected by the first respondent. The Trial Court has dismissed the application on the ground that since no relief that has been sought against the said third party and observed that if at all the plaintiff wants to prove certain facts, the above proposed party could be summoned as a witness. As against which, the present civil revision petition is filed.

4. Heard Mr.K.Selvakumar, learned counsel for the petitioner and Mr.Sam Jayaraj Hosson, learned counsel appearing for the first respondent.

5. It is curious to know that no relief that has been sought against the third party and there is no privity of contact between themselves. The only allegation of the plaintiff is that her presence is necessary to establish his case. It is to be noted that when the plaintiff wants to establish certain facts through the third party, that person can be called as witness to substantiate the contentions of the plaintiff.

6. Such view of the matter, I do not find any infirmity in the order passed by the Trial Court. Therefore, the present Civil Revision Petition is dismissed. The Trial Court is directed to dispose of the Suit within a period of six months from the date of receipt of a copy of this order.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

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To

The first Additional District and Session Judge,
Coimbatore.

+1 CC to Ms.P.Veenasuresh, Advocate sr 21891.
+1 CC to M/s.Sarvabhuman Associates sr 21595.

CRP.(PD).No.2195 of 2016

KS (CO)
SP (23/04/2019)