



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2019

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P(PD) (MD)No.1694 of 2013

and

M.P. (MD) No.1 of 2013

1.N.Sridhar ... I Petitioner/ I Respondent/Defendant

2.M/s.Don Fire Works Industries,
Sivakasi,
Door No.124, South Car Street,
Sivakasi Town,
Virudhunagar District.

3.Vimala Jayanthi,
Partner Don Fireworks Industries

... Petitioners 2 & 3/Respondents 2 & 3/
Proposed Defendants 2 & 3

Vs.

1.M.Dharmarajan(died) ... Respondent/Petitioner/Plaintiff

2.D.Esthar Sournamani
3.D.Selvin
4.T.Belsy
5.K.Sheela

... Respondents 2 to 5

(Respondents 2 to 5 are
brought on record as Lrs of the
deceased sole respondent vide Court
Order dated 01.08.2018 made in
C.M.P(MD)Nos.6311 to 6313 of 2018 in
CRP(MD)No.1694 of 2013)

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order of the learned Subordinate Judge, Sivakasi passed in I.A.No.137 of 2012 in O.S.No.3 of 2011, dated 19.10.2012.

For Petitioners : M/s.S.Parthasarathy

For Respondent : Mr.M.Ashok Kumar



O R D E R

This Civil Revision Petition seeks to challenge the order passed by the Subordinate Judge, Sivakasi, impleading the third parties as defendants in a suit filed for recovery of money based on a promissory note.

2. The facts leading to the case are as follows:

(i) The first respondent/plaintiff had filed a suit against the first petitioner for recovery of money said to be due based on a promissory note.

(ii) The defence to the suit was that the defendant had no knowledge about the plaintiff and that promissory note, which was issued in the course of conducting his business as a Partner of the second petitioner/Firm, has been misused by the first respondent/plaintiff.

(iii) It is further seen that after the evidence had commenced in the suit and P.W.2's evidence had been completed, the plaintiff comes forward with the petition seeking to implead the petitioners 2 and 3 as defendants 2 and 3 on the ground that the defendant in his written statement had stated that the promissory note had been executed as a Partner of the second petitioner/Firm and therefore, it was necessary to implead the Firm as well as the other Partner as defendants in the suit.

(iv) The said petition has been allowed by the trial Court and challenging the same, the defendant and the proposed defendants are before this Court.

3. I have heard the learned counsels appearing on either side.

4. It is seen that during pendency of this Civil Revision Petition, the first respondent/plaintiff died and his legal heirs were brought on records as respondents 2 to 5.

5. The plaintiff's case is that the defendant, namely, the first petitioner had executed a promissory note in his favour. It is not the case of the plaintiff that the petitioners 2 and 3 have executed the said promissory note. The defendant has contended that he has signed the blank promissory note in the course of his business as a Partner of the second petitioner/Firm. Therefore, it is for the defendant to prove the said contention by examining the partners of the said Firm. The plaintiff cannot seek to have them impleaded as he does not have any cause of action with the said petitioner and no claim can be made against them. The trial Court has lost sight of the same and has erroneously allowed the



application. The petitioners 2 and 3 are neither proper nor necessary parties to the proceedings. Therefore, this Court is inclined to interfere with the order passed by the Court below.

6. In the result, the order dated 19.10.2012 passed in I.A.No.139 of 2012 in O.S.No.4 of 2011 by the learned Subordinate Judge, Sivakasi, is set aside and Considering the fact that the suit is of the year 2011 and P.W2's evidence had been completed, the learned Subordinate Judge, Sivakasi, shall dispose of the suit, within a period of three months from the date of receipt of a copy of this order.

7. Accordingly, the Civil Revision Petition is allowed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

pm

To,

1.The Subordinate Judge,
Sivakasi.

2.The Record Keeper, (2 Copies)
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.PARTHASARATHY, Advocate (SR-98507[F] dated 15/11/2019)

+1 CC to M/s.M.ASHOK KUMAR, Advocate (SR-98561[F] dated 15/11/2019)

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JMN(05.12.2019) 3P : 6C