



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P(MD)No.2300 of 2019

and

C.M.P. (MD)No.12083 of 2019

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Radhakrishnan ... Revision Petitioner /Petitioner/ Defendant
-Vs-

1.A.Vinayakamoorthy ... 1st Respondent / 1st Respondent/ Plaintiff

2.P.Chandrasekaran ...2nd Respondent / 3rd Party /
Proposed 2nd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.153 of 2017 in O.S.No.368 of 2015, dated 25.07.2018 on the file of the Sub Court, Srivilliputhur.

For Petitioner : Mr.J.Ashok

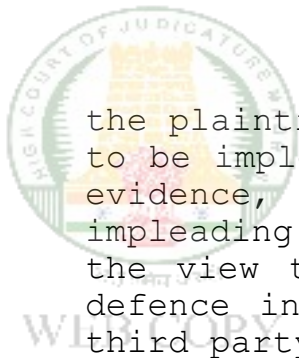
ORDER

This Civil Revision Petition has been filed against the fair and decreetal order passed by the trial Court, dismissing the application filed by the defendant to implead the third party as one of the defendants in the suit.

2.It is the case of the petitioner that from the proposed party, he has borrowed the amount and issued a blank cheque and has paid the amount, whereas the suit has been filed by the present plaintiff, using the blank cheque issued to the proposed party. Therefore, the proposed party is to be added as defendant. The trial Court has dismissed the application. As against which, the present Revision Petition is filed.

3.This Court is of the view that the order of the trial Court does not require any interference. The application has been filed by the defendant to implead the third party as second defendant, on the ground that he has borrowed money only from the second defendant. Therefore, his presence is required.

4.This Court unable to comprehend the submission of the learned counsel appearing for the revision petitioner for the simple reason that the plaintiff being the dominus litus, has to sue against whom relief is sought for. The defendant cannot contend that only the third party is necessary. His defence is that he has borrowed money from the third party, who said to be the friend of



the plaintiff and issued blank cheque to him. Therefore, he is also to be impleaded. If such defence of the defendant is the matter of evidence, it is to be established only by the trial not by impleading the third party as defendant. Hence, this Court is of the view that it is for the revision petitioner to establish the defence in proper manner and if he is advised, he can summon the third party to be examined in this regard.

5. Accordingly, this Civil Revision Petition is dismissed at the admission stage itself. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Sub Court, Srivilliputhur.

Copy to:

The Section Officer,
V.R. Records,
Madurai Bench of Madras High Court, (2 copies)
Madurai.

+1 CC to M/s.J.ASHOK, Advocate (SR-104881[F] dated 13/12/2019)

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SMA/06/01/2020/2P/5C