

A.No.2235 of 2021
in C.S.No.640 of 2018

DR.G.JAYACHANDRAN, J.

The suit is filed by the President, Chinthadripet Fish and Perishable Products Traders Society and 19 others against the sole defendant for enforcement of the agreement and permanent injunction.

2. Pending suit, it is alleged that some of the plaintiffs have joint hands with the 1st defendant and had withdrawn the Vakalat given to the Counsel. Therefore, apprehending the same these plaintiffs, namely 2, 6, 8, 9, 14, 15, 17, 18 and 20 have colluded with the 1st defendant. Application is filed to transpose them as defendants.

3. The Learned Counsel for the sole defendant would submit that the allegation of collusion is false and incorrect. Individually, some of the plaintiffs have entered into a lease agreement lawfully with the defendants and they are not necessary parties in the suit and their names are to be struck off.

4. The Learned Counsel represented on behalf of the plaintiffs, who are now sought to be transposed submitted that, they have filed an affidavit detailing out the fact that they are not interested in the litigation and they are not

going to sail either with the plaintiff or with the defendant and their names may be deleted from the litigation.

5. The Learned Counsel for the plaintiff Nos.2, 6, 8, 9, 14, 15, 17, 18 and 20, have filed memo, wherein, it is stated that, they have no objection for the Court to proceed and decide the matter on merits. However, there is no reason to retain as defendants. The relevant paragraph Nos.5, 6 and 7 of the affidavit are extracted below:-

“5. I submit that since I and 8 other Plaintiffs who are sought to be transposed as Defendants were initially part of the fish merchants association, which was non-operational for a long period of time and since the common interest was projected to us, we were also made plaintiffs and some of us were also impleaded by way of specific order from this Hon'ble Court upon impleading applications.

6. I submit that I have no objection in this Hon'ble Court proceeding to decide the matter on merits and coming to just conclusion based on evidence and law. There is no relief claimed against me as the suit was never framed against me. Therefore, there is no reason to retain me as a Defendant along with other Defendants against whom the Plaintiffs have sought for specific reliefs. Under these circumstances, I do not want to be compelled to be a party to the suit just because the Plaintiff wants to retain us as Defendants.

7. I request this Hon'ble Court to pass an order to remove my name from the array of parties of plaintiffs as my co-plaintiffs do not want me to be a Plaintiff anymore in view of the application seeking to transpose me and 8 other Plaintiffs as Defendants in the suit and also for the reason that I will not challenge or question the proposed Decree or Judgment to be passed by this Hon'ble Court in the above suit."

6. The Learned Senior Counsel appearing for the applicants/plaintiffs would submit that, even if these plaintiffs namely 2, 6, 8, 9, 14, 15, 17, 18 and 20 are going to maintain neutrality, their presence in the suit is necessary for complete adjudication and therefore, they must be transposed as defendants and it is open for them to contest the suit or remain neutral, because the cause of action had arisen due to breach of Clause 16 of the agreement dated 06.05.1990 entered between the Society on behalf of its members and the landlord.

7. Considering the nature of litigation and the rival pleadings as well as the affidavit filed by the plaintiffs, who are now sought to be transposed for complete adjudication, this Court is of the view that, the respondents 2 to 10/plaintiffs 2, 6, 8, 9, 14, 15, 17, 18 and 20 shall be transposed as defendants as a proper parties in the litigation. Accordingly, this **Application No.2235 of 2021 is**

allowed. No costs. The Learned Counsel for the plaintiffs is directed to file

amended plaint copy on or before 04.10.2021.

13.09.2021

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