

A.Nos.2614, 2615 of 2020
in C.S.No.127 of 2020

C.V.KARTHIKEYAN J.

Both these applications have been filed by the plaintiff in the suit. A.No.2615 of 2020 had been filed seeking permission to permit the applicant / plaintiff to amend the status of the 1st respondent R.Paneerselvam as partner, M/s.Rohini Movie Park instead of as sole proprietor as shown in the cause title. A.No.2614 of 2020 has been filed as a consequential application, since in view of the fact, that the first defendant is to be categorized as a partner firm, to implead as proposed defendants, the partnership firm and the other partners of the said partnership firm as 2nd to 6th defendants.

2. In the affidavit filed in support of the said applications, the plaintiff had stated that the 1st defendant had filed the written statement wherein he had stated that he was not the sole proprietor of the Theatre Premises and that the sole proprietorship has been reconstituted as a partnership firm in the name and style of M/s.Rohini Movie Park.

3. Under these circumstances, that the plaintiff had filed the present applications particularly A.No.2615 of 2020 to categorize the first defendant as a partner of M/s.Rohini Movie Park and not as sole proprietor of M/s.Rohini Movie Park. The other application namely A.No.2614 of 2020 had been filed to implead the partnership firm and the other partners of the said partnership firm as 2nd to 6th defendants. Incidentally they are the wife and sons of the 1st defendant.

4. A counter had been filed. It had been stated that the partnership firm had not executed any document with the plaintiff and therefore the pleadings raised in the suit against the proprietor would not create any obligation on the partnership firm to answer such pleadings. It had been also been stated that the lease has been closed and that the accounts have been settled in July / August 2011.

5. The matter has been coming up for quite sometime. The learned counsel for the 1st defendant was not able to get proper connectivity today. But, however, I hold that a perusal of the records show that in the plaint the 1st defendant Panneerselvam has been

described as the proprietor of M/s.Rohini Movie Park. In the written statement he stated that he was actually a partner of M/s.Rohini Movie Park which had been reconstituted as a partnership firm.

6. It is only natural that the plaint will necessarily have to be amended to bring the partnership firm on record as the 2nd defendant and also the partners of the firm as 3rd to 6th defendants. Reference can also be made to Order 1 Rule 5 of CPC wherein, anybody interested may also be joined as defendants. It is only be in the interest of the proposed defendants that they are impleaded in the suit, since if any order is passed, they would also be aware of such order.

7. Moreover, the liability of the partnership firm and the partners practically overlap. Whether the suit relief survive or not is an issue to be taken up during the course of trial.

8. In view of these facts, these two applications are allowed.

9. Registry to carry out the necessary amendments categorizing the 1st defendant as partner of M/s.Rohini Movie Park and impleading

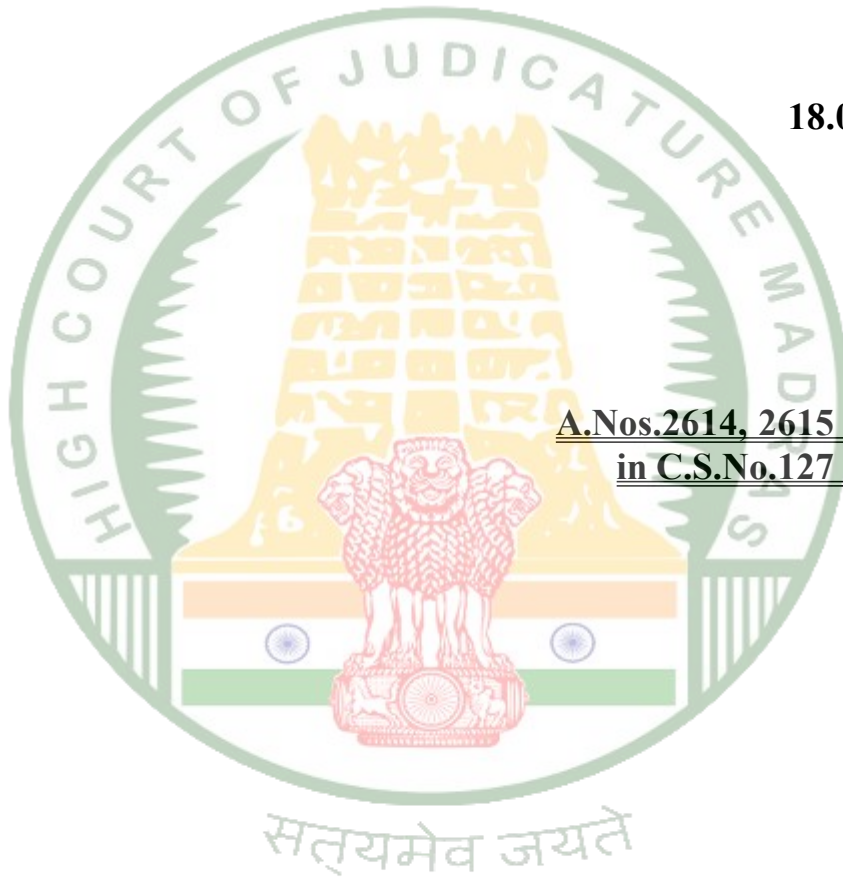
C.V.KARTHIKEYAN.J,

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the 2nd to 6th defendant. The learned counsel for the plaintiff may file amended copy of the plaint.

**18.03.2021
(1/2)**

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