



A.No.8906 of 2019
in C.S. No. 345 of 2019

ABDUL QUDDHOSE,J.

This application has been filed seeking to implead the applicant, as the fourth defendant in the suit C.S.No.345 of 2019.

2. A.No.8906 of 2019 has been filed by the wife of the third defendant, claiming that since she only discharged the loan of the plaintiff, she is a necessary party to be impleaded in the suit. She also claims to be in possession of the property. However, the same has been disputed by the first respondent/plaintiff, as seen from the counter affidavit filed by him.

3. By order dated 16.07.2020 passed by a Division Bench of this Court in O.S.A.No.52 of 2020, this application A.No.8906 of 2019, which was earlier dismissed by a learned Single Judge of this Court on 25.07.2019, was set aside and the Division Bench has remanded the matter back to this Court for fresh consideration on merits and in accordance with law.

3. According to the respondents/plaintiff, the applicant/proposed fourth defendant is no way connected with the dispute between the plaintiff and the defendants 1 to 3. It is also the case of the respondents/plaintiff that the husband of the applicant, viz., the third defendant in the suit earlier filed an



application in A.No.5132 of 2019 under Order VII Rule 9 of C.P.C to reject the plaint in C.S.No.345 of 2019, which was withdrawn by him on 25.07.2019.

4. It is the case of the plaintiff that the applicant/fourth respondent has no *locus standi* to file this application, as she is not a necessary party to be impleaded and only to drag on the proceedings between the plaintiff and the existing defendants, this application has been filed.

5. Learned counsel for the plaintiff submits that the issues have already been framed in the suit and the trial has already commenced. He would further submit that the plaintiff has already been examined as a witness and documents on the side of the plaintiff has also been marked as exhibits before the Learned Master.

6. This Court is of the considered view that without prejudice to the rights and contentions of the respondents/plaintiff in the main suit with regard to the claim made by the applicant in this application viz., A.No.8906 of 2019, this application can be allowed in order to see the early disposal of the suit C.S.No.345 of 2019, in which, trial has already commenced.



fourth defendant has given an undertaking before this Court, on instructions, that the written statement to be filed by the proposed fourth defendant viz.,

applicant herein will be filed within a period of three weeks from today. The said undertaking is recorded. He has also given an undertaking that pending disposal of the suit, no further applications will be filed by the applicant/proposed fourth respondent. The said undertaking is also recorded by this Court.

8. Accordingly, after recording the undertaking given by the learned counsel for the applicant/fourth defendant before this Court, **A.No.8906 of 2019** is allowed as prayed for, without prejudice to the rights and contentions of the respective parties in the main suit.

9. Learned counsel for the plaintiffs is directed to carry out the amendment and serve a copy of the amended plaint to the respective counsels for the respective defendants, to enable them to file additional written statement, if any, and to enable the impleaded fourth defendant to file the written statement, within period of three weeks from the date of receipt of a copy of this order.

10. Post the suit on 22.12.2021.



ABDUL QUDDHOSE,J

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