



A.Nos.497, 498 and 499 of 2022

in

C.S.No.219 of 2020

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P.VELMURUGAN, J.

The application in A.No.497 of 2022 has been filed to strike out the name of the applicant/3rd defendant from the array of defendants in C.S.No.219 of 2020.

2. The application in A.No.498 of 2022 has been filed to strike out the pleadings in paragraphs 4 and 37(a) and strike off the claim under paragraphs 4 and 37(a) from the body of the plaint in C.S.No.219 of 2020 filed by the 1st respondent.

3.The application in A.No.499 of 2022 has been filed to reject the plaint in C.S.No.219 of 2020.

4.The learned counsel for the applicant/3rd defendant submitted that the third defendant is the wife of the first defendant Mr.S.Nagarajan. As per the terms of the agreement, the 1st defendant alone is liable to pay the sum as claimed in the plaint. There is no privity of contract between the applicant and the plaintiff. Paragraph No.4 of the plaint averments clearly shows that the plaintiff makes allegations only against the 1st defendant. He further



submitted that, yet another Director is also available in the Company and the applicant has been unnecessarily added as a party in the suit and hence, the name of the applicant may be struck off from the array of defendants in the plaint.

5.The learned counsel for the first respondent/plaintiff submitted that the 3rd respondent is also one of the Directors of the said Company at the relevant point of time and subsequently, she resigned from the said post. As far as the initial capacity, she is liable to pay the suit claim. He further submitted that the plaintiff himself was examined as P.W.1 and he was cross examined by the learned counsel for the defendants, and to that extent, half of the way, to stop the proceedings, the present application has been filed to strike off the applicant from the array of the defendants in the plaint.

6.Heard the learned counsel for the applicant and the learned counsel for the respondents and also perused the materials available on record.

7. Admittedly, the 1st respondent/plaintiff filed the suit for recovery of a sum of Rs.1,16,12,076/- together with interest at the rate of 24% per annum from the date of the plaint till the date of realization against the



applicant herein and two others. A reading of plaint averments clearly shows that the applicant was also one of the Directors of the 2nd defendant Company, at the relevant point of time.

8.It is settled proposition of law that while deciding the application under Order VI Rule 16 of C.P.C and under Order VII Rule 11 of C.P.C, the Court has to see the averments made in the plaint and not the defence taken by the defendants. If the pleadings are unnecessary, scandalous, frivolous or vexatious, the Court can strike off or amend the pleadings.

9.In the present case, pleadings are complete and trial has also commenced and the case is under half way of trial and at this stage this Court is not inclined to allow the application to strike off the portion in the plaint as sought for in the application. This Court does not even find any reason to strike off the name of the applicant/3rd defendant from the array of the defendants in the suit. Accordingly, A.No.497 of 2022 is dismissed. However, the applicant is at liberty to take all her defence in the suit.

10.The learned counsel for the applicant/1st defendant in A.Nos.498



and 499 of 2022 in C.S.No.219 of 2020 seeks permission of this Court to withdraw the applications and also made the endorsements to that effect.

11. In view of the submission and endorsements made by the learned counsel for the applicant, the applications in A.Nos.498 and 499 of 2022 in C.S.No.219 of 2020 are dismissed as withdrawn.

12.Registry is directed to place the suit before the concerned learned Additional Master for continuation of recording of the evidence.

11.03.2022

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