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A.Nos.1200 & 1201 of 2022
in C.S.No.595 of 2018

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C.S.No.595 of 2018

P.VELMURUGAN, J.

The application in A.No.1200 of 2022 has been filed to strike out the name of the applicant/3rd defendant from the array of defendants in the above suit.

2.The application in A.No.1201 of 2022 has been filed to permit the applicant to file written statement independently as 3rd defendant in the above suit.

3. It is the contention of the learned counsel for the applicant/3rd defendant that the applicant has been improperly impleaded as a party to the present suit. The suit was filed against the 2nd respondent/1st defendant for recovery of money. During the pendency of the suit, the Managing Director of the 2nd respondent/Partnership Firm died on 11.07.2021. Subsequently, the defendants 2 to 4 were brought on record as the legal representatives of the deceased. The applicant/3rd defendant is the daughter of the Managing



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Partner of the 2nd respondent Firm. The applicant is neither a proper nor a necessary party and hence, the name of the applicant may be struck off from the array of defendants in the suit.

4.Heard both sides and perused the materials available on record.

5.It is not in dispute that the suit was filed against the 1st defendant/ Partnership Firm for recovery of money and during the pendency of the suit, the Managing Director of the said Firm died and the legal heirs of the deceased were brought on record. If the Managing Director of the Partnership Firm died, rest of the partners are liable to be impleaded, however, the legal heirs of the partners cannot be impleaded, except any personal guarantee is given. Admittedly, in the case on hand, the applicant is the daughter of the Managing Partner of the 1st defendant Firm, but, not the partner of the said Firm.

6.In the light of the above facts and circumstances, the application in A.No.1200 of 2022 is allowed. The name of the applicant/3rd defendant is



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struck off from the array of the defendants in the above suit. The plaintiff is directed to carry out necessary amendment and to file a copy of the amended plaint.

7.Since A.No.1200 of 2022 is allowed and the name of the applicant/3rd defendant is struck off from the suit, filing of written statement does not arise. Accordingly, application in A.No.1201 of 2022 is dismissed.

8. List C.S.No.595 of 2018 on 09.06.2022.

13.04.2022

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