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A.No.2586 of 2022

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and
C.S.No.595 of 2018

C.V.KARTHIKEYAN, J.

The plaintiff has filed the present application. The plaintiff appears to be having an identity crisis, with respect to the nomenclature of the defendants.

2. There is some confusion over the parties to the suit which is the first aspect which should have been addressed in the plaint.

3. The suit was originally instituted against Saravana Stores (Gold Palace), represented by its Managing Partner, Mr.Y.Pallakku Durai (Deceased), having its registered office at No.14, Ranganathan Street, T- Nagar, Chennai - 600 017.

4. The learned counsels who had entered appearance on behalf of the defendants expressed their grievance at the initial stage itself. They had raised a grievance stating that the suit as originally filed suffered from formal defects that though the partnership Firm had been shown as a defendants, its managing partner alone had been impleaded and other partners had not been impleaded as defendants.

5. Over the period of time, the suit has been pending, unfortunately, the Managing Partner Mr.Y.PallakuDurai, died. The plaintiff then went about impleading his legal representatives as further



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defendants. They have been impleaded as 2nd, 3rd and 4th defendants.

The 2nd defendant is his widow, the 3rd defendant is his daughter and the 4th defendant is his son.

6. The Impleading application was allowed and amendment had been carried out. They have been very specifically impleaded as legal representatives of Mr.Y.Pallakku Durai.

7. In the meanwhile, the 3rd defendant/daughter had filed an application seeking to strike off the plaint as against her. The contentions raised by her found favour with a learned Single Judge of this Court, who by an order dated 13.04.2022, acceded to that request and the plaint was struck off in so far as the 3rd defendant/daughter was concerned.

8. Thereafter, the plaintiff's confusion over the identity still continued and now the present application has been filed seeking further amendment to describe the existing two defendants namely the 2nd defendant/widow and the 4th defendant/son as partners of the 1st defendant Firm.

9. It is contended in the affidavit filed in support of this application that in the affidavit filed by the 3rd defendant seeking to strike off the plaint as against her, it had been revealed that a deed of re-constitution of the partnership had been entered into and the present 2nd



and 3rd defendants had been shown as partners of the 1st defendant, necessitating, this particular amendment.

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10. However, the learned counsels for the defendants still raise an objection stating that in the initial stage, the suit was instituted only against the partnership Firm and not against the partners. Thereafter, the partners were impleaded as legal representatives and now that character is changed to recognize them as partners which, would give a leverage to the plaintiff to proceed against them in case, a decree is obtained as against the 1st defendant.

11. But this also works on the other way, that it is only appropriate that, they are impleaded because, they can, then, defend the suit and raise all objections. I would therefore, permit such amendment.

12. But let the manner in which the suit was originally filed, the manner in which the defendants were subsequently impleaded and the nomenclature under which they are now sought to be proceeded further be a matter of record.

13. The defendants are at liberty to raise this issue in their written statement and if such an issue is actually raised by them, while framing issues under Order 14 CPC, I am confident that the plaintiff would be called upon to explain as to the maintainability of the suit in its original form and also subsequent to the amendment.



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14. It is also informed that an issue on limitation with respect to the claim raised in the suit also subsists. But again, that aspect can be examined only when the written statement is filed.

15. In view of the above reasoning, I would allow this application and permit necessary amendments to be carried out in manner known to law.

12. The time limit for filing of written statement so far as the defendants are concerned, would begin to run only after impleading them and recognizing them as partners of the 1st defendant.

06.09.2022

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