



C.R.P.No.414 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.414 of 2019

P.Apparasamy,
Partner
M/s.Balaji Theatre,
Kamaraj Salai,
Puducherry.

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Petitioner

Vs

M/s.Balaji Theatre, Puducherry,
Represented by its partners,
1. R.Perumal @ Kaliaperumal

2. K.Ramesh

3. The Registrar of Firms,
Office of the Registrar of Companies,
Puducherry.

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Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair order and decreetal order dated 23.04.2018 in I.A.No.552 of 2016 in O.S.No.115 of 2011 on the file of the Principal Subordinate Court at Puducherry.



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For Petitioner : M/s.P.Veena Suresh
For R1 : Mr.D.Ravichander
For R2 : Mr.V.Manohar
For R3 : Mrs.G.Djeardny
Government Advocate (Pondy)

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 23.04.2018 in I.A.No.552 of 2016 in O.S.No.115 of 2011 on the file of the Principal Subordinate Judge, Puducherry, thereby dismissing the petition filed to record the objections for the appearance of the counsel Tr.P.Rabindran to continue further in the matter to act on behalf of the first plaintiff in the suit.

2. Originally, the petitioner and another filed a suit for declaration that the plaintiff firm M/s.Balaji Theatre is dissolved as on the date of presentation of the plaint in O.S.No.130 of 2008 i.e., 04.06.2007 or the erstwhile partnership firm M/s. Balaji Theatre, Pondicherry, consisting of plaintiffs and first defendant was not dissolved to grant a decree for the dissolution of the said partnership firm between them. They also prayed for mandatory injunction to make an amendment in the entry of the register of firms relating to the plaintiff firm and permanent injunction.

3. Pending suit, the petitioner filed an application in I.A.No.595



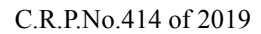
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of 2015 for an order to transpose him as the third defendant in the suit enabling him to proceed further with the matter to decide the suit on merits .

Therefore, there is a conflict of interest between himself and the first respondent to proceed further. It would be against his interest and transposing him one of the defendant in the suit. He engaged separate counsel to file I.A.No.595 of 2015, after obtaining no objection from the counsel, who appeared on behalf of the plaintiffs. Therefore, the petitioner filed a petition to record his objections for his counsel, who appeared on behalf of the plaintiffs to continue in the matter to act on behalf of the plaintiffs.

4. Admittedly, the application in I.A.No.595 of 2015 is still pending and the petitioner is yet to transpose himself as one of the defendant in the suit. Therefore, the petition filed by him to record his objections is pre-mature. That apart, he already obtained change of vakalat from the counsel, who appeared on behalf of the plaintiffs and engaged another counsel to defend the suit. Therefore, the petitioner cannot object the earlier counsel who was engaged by him to appear on behalf of other plaintiffs. Once, he obtained no objection to engage new counsel, he cannot



5. The proviso of Section 20 of Civil Rules of Practice is very clear that the consent of the party shall be presumed if he engages another pleader to appear for him in such suit, appeal or other proceeding without offering an engagement to the pleader whose services he originally engaged. Thus, it is clear that once the petitioner obtained no objection from the earlier counsel to engage new counsel, the earlier counsel ceased to be his counsel and there would not be any conflict of interest. Therefore, the Court below rightly dismissed the petition.

6. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, this Civil Revision Petition stands dismissed. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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The Principal Subordinate Judge,
Puducherry.

G.K.ILANTHIRAIYAN, J.



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