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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 21ST DAY OF APRIL 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

A. Nos.7546, 7547, 7549, 7553 of 2018

in

E.P. Nos.32,34,33,35 of 2017

E.P. Nos.32,34,33,35 of 2017:-

M/s. Sundaram Finance Limited
No:21, Patullos Road, Chennai 600 002
Rep.by its Senior Manager - Legal
Mr.N.Madhusudhanan

... Decree Holder

-Versus-

Mr.N.S.Sidharthan,
Proprietor,
M/s. Hindussthan Marine Engineering Works,
Carries on business at:
No:1, Old Sical Plot, Fire Fighting Road
Inside Harbour, Chennai - 600 001.

... Judgment Debtor

A. Nos.7546, 7547, 7549 & 7553 of 2018:-

Hindusthan Marine Engineering Works,
rep. by its Proprietor, N.S.Sidharthan,
No.1, Old Sical Plot, Fire Fighting Road,
Inside Harbour, Chennai-600 001.

... Applicant/Applicant

-Versus-



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1. M/s.Sundaram Finance Limited

Rep. by its Manager - Legal

Mr.Madhusudhanan

No:21, Patullos Road,

Chennai 600 002.

... Respondent/Respondent/Decree Holder

2. Tax Recovery Officer-XVIII,

Range V, Income Tax Department,

No.121, Uthamar Gandhi Salai,

Annexe Building, 6th Floor,

Chennai-600 034.

... Respondent/Proposed Respondent

A. No.7546 of 2018:-

Application praying that this Hon'ble Court be pleased to pass an order to permit applicant to implead the Tax Recovery Officer XVIII, Range V, Income Tax Department, Chennai, as one of the respondents.

A. No.7547 of 2018:-

Application praying that this Hon'ble Court be pleased to pass an order to permit applicant to implead the Tax Recovery Officer XVIII, Range V, Income Tax Department, Chennai, as one of the respondents.

A. No.7549 of 2018:-

Application praying that this Hon'ble Court be pleased to pass an order to permit applicant to implead the Tax Recovery Officer XVIII, Range V, Income Tax Department, Chennai, as one of the respondents.



A. No.7553 of 2018:-

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Application praying that this Hon'ble Court be pleased to pass an order to permit applicant to implead the Tax Recovery Officer XVIII, Range V, Income Tax Department, Chennai, as one of the respondents.

These applications coming on this day before this court for hearing, the Court made the following order:-

Applications have been filed by the applicant seeking permission to implead the Tax Recovery Officer XVIII, Range V, Income Tax Department, Chennai as one of the respondents.

2. Applicant is the first judgment debtor. First respondent is the decree holder.

3. Admittedly, decree has been passed against the judgment debtor and in favour of the first respondent. Decree holder had filed the execution petition for arrest before the learned Master. The learned Master also passed an order of arrest in the execution petition. Challenging the order of arrest passed by the learned Master, the applicant/first judgment debtor has filed the appeals in A.Nos.1105 to 1111 of 2018 and also filed the abovesaid applications to implead the Tax Recovery Officer/Income Tax Department.

4. Learned counsel for the applicant submitted that all the properties



stand in the name of Judgment debtor and the same were attached by the Income Tax Department. Subsequently the attachment was raised, but it is not clear about the extent of the properties and the order of raising of attachment. Therefore, the Income Tax Department has to be impleaded as a party.

5. Learned counsel for the respondent submitted that the proposed party has nothing to do with these execution petitions and also in appeals. When the stand has not been taken either in the suits or in the Execution Petitions, the applicant cannot introduce a new defence in the applications. Even otherwise, the proposed party has nothing to do either in the E.Ps or in the appeals. Without the presence of the proposed party, effective decision can be arrived at by this Court in the appeals. Therefore, the present applications are liable to be dismissed.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Admittedly, the applicant is the first judgment debtor. First respondent is the decree holder. The first respondent/decreed holder filed E.P before the learned Master for arrest of the first judgment debtor. Learned Master also ordered for arrest. Challenging the said order, the first judgment debtor has filed the appeals before this Court. During the

pendency of the appeals, the present applications have been filed to implead



the proposed party as second respondent in the appeals.

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8. As pointed out by the learned counsel for the first respondent/decree holder, the second respondent/proposed party is neither a necessary party nor a proper party. He has nothing to do with the order passed by the learned Master in E.Ps. In E.Ps, the only question that has to be decided is as to whether the applicant has got sufficient means to discharge the decree. Despite having sufficient means, he willfully avoided the execution of the decree, thereby, caused delay. Therefore, impleadment of the proposed party in the appeals has nothing to do to decide the appeals. The proposed party is neither a necessary party nor the proper party. His presence is not necessary for this Court to arrive at an effective decision in appeals (applications). Hence all the present impleading applications are dismissed.

9. List the appeals/applications on 15.06.2022 for arguments.

Sd./-PVJ.

21/04/2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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