



C.R.P(MD)No.1169 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1169 of 2023

and

C.M.P(MD)No.5641 of 2023

1.A.Prince

2.A.Preethi

... Petitioners/Petitioners/
Defendants 2 & 3

Vs.

1.Soosai Mariyaan

... Respondent/1st Respondent/
Plaintiff

2.Therasal

... Respondent/2nd Respondent/
1st Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 20.03.2023 passed by the Additional Sub Court, Srivilliputhur in I.A.No.4 of 2022 in O.S.No.30 of 2015.

For Petitioners : Mr.K.Sudalaiyandi



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ORDER

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The present Civil Revision Petition has been filed against the fair and decreetal order, dated 20.03.2023 passed by the Additional Sub Court, Srivilliputhur in I.A.No.4 of 2022 in O.S.No.30 of 2015.

2. The petitioners are the defendants 2 and 3 in O.S.No.30 of 2015 before the Additional Sub Court, Srivilliputhur. The said suit has been filed by the first respondent herein against the petitioners herein and their mother. At the stage of the trial, the petitioner has filed I.A.No.4 of 2022 under Order 1 Rule 10 (2) of C.P.C.

3. The case of the petitioner is that the Additional Sub Court, Srivilliputhur has committed a grave error in rejecting the application filed by the petitioners as the petitioners are not party to the alleged loan transaction between the petitioner's brother and father (Since deceased 2014) and their mother. It is the further case of the petitioner that they have been wrongly shown as defendants 2 and 3 in the above suit.

4. I have considered the arguments advanced by the learned counsel for the petitioner.



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5. The petitioners have filed their written statement in the suit. The trial has also commenced. The application in I.A.No.4 of 2022 has been filed at the stage of cross examination of P.W.1. There was no necessity to file I.A.No.4 of 2022 to strike off their names at that stage. In any event, the petitioners, who are sons of late.Albert and the second respondent herein can be made liable only to the extent of amounts that were borrowed by their parents.

6. Therefore, challenge to the impugned order rejecting the dismissal of I.A.No.4 of 2022 cannot be countenanced. The Additional Sub Court, Srivilliputhur is directed to dispose of the suit in O.S.No.30 of 2015 as expeditiously as possible preferably within a period of 9 months from the date of receipt of copy of this order.

7. The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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- 1.The Additional Sub Court,
Srivilliputhur.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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