



CRP(MD).No.2608 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No. 2608 of 2022

and

C.M.P(MD).No.12735 of 2022

K.Kannahi

.. Petitioner/Petitioner/3rd Party

Vs.

1.S.P.G.R.Madavan (died) .. 1st Respondent/1st Respondent/Plaintiff

2.M/s.S.P.G.Ramasamy Nadar Sons

A Partnership firm through its
Managing Partner,
Sri.S.P.G.Nithyanandham

3.S.P.G.R.Nithyanandam

4.S.P.G.R.Chandran ... Respondents 2 to 4/Respondents 2 to
4/Defendants 1 to 3

5.Vijaya

6.Bhuvaneshwari

7.Kavitha

rep., by her power agent
Ariharaprabhu

8.Ariharaprabhu ... Respondents 5 to 8

(R5 to R8 are brought on record vide Court order dated 01.03.2023 in
C.M.P(MD).No.832 of 2023)

(R4 rep., by her power agent R5 vide Court order dated 01.03.2023 in
C.M.P(MD).No.833 of 2023)

PRAYER : Revision Petition filed under Article 227 of the Constitution
of India, to set aside the order passed by the Subordinate Court,



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Virudhunagar, in I.A.No.300 of 2017 in O.S.No.54 of 2016 dated 29.06.2022.

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For Petitioner : Mr.K.Muraleedharan
For Respondents : Mr.D.Nallathambi(for R2 to R4)
Mr.G.K.Chitradevi (for R5 to R8)

ORDER

The revision petitioner is a third party in a suit in O.S.No.54 of 2016 for dissolution of firm and rendition of accounts. The revision petitioner had filed I.A.No.300 of 2017 to get herself impleaded as one of the defendants in the said suit and the said application has been dismissed. Challenging the same, the present revision petition has been filed.

2. According to the learned counsel appearing for the petitioner, she had filed O.S.No.1 of 2003 on the file of the Additional District and Sessions Court, Virudhunagar, for recovery of money as against the firm/first defendant and the same was decreed on 15.03.2017. Challenging the said decree, the firm has filed a first appeal and the plaintiff/revision petitioner has also filed a cross-appeal seeking enhancement of rate of interest. Admittedly, the first appeal and the said cross-appeal are pending before the High Court.



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3. According to the learned counsel appearing for the petitioner, in case if the first defendant/firm is dissolved pursuant to any decree in O.S.No.54 of 2016, his rights as a decree-holder in O.S.No.1 of 2003 would get affected. Therefore, she would like to get herself impleaded as one of the defendants in O.S.No.54 of 2016.

4. Per contra, the learned counsel appearing for the partnership/firm and partners therein contend that it is a suit for dissolution of partnership and rendition of accounts and the proposed party being a third party to the firm is not a necessary party and he prayed for sustaining the order passed by the trial Court.

5. I carefully considered the submissions made on either side.

6. Admittedly, the present suit is for dissolution of partnership and rendition of accounts and the proposed party is not a partner of the said firm. The only ground on which the petitioner seeks to implead herself in the present suit is that, she is the decree-holder as against the firm in O.S.No.1 of 2003. This cannot be a ground to implead the



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revision petitioner in O.S.No.54 of 2016. Whatever rights that are accrued to the revision petitioner by way of decree in O.S.No.1 of 2003 has to be worked out by her in the manner known to law under Order 21 of the Code of Civil Procedure. Being a third party to the firm, the petitioner is not a necessary party to the present suit. Therefore, I do not find any illegality or infirmity in the order passed by the trial Court. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

7. If the firm is dissolved and the Commissioner /Chartered Accountant is appointed as receiver to take accounts, the revision petitioner shall be put on notice by the said Advocate Commissioner, depending upon the result of the pending first appeal as well as the cross-appeal challenging the money decree obtained by the revision petitioner.

01.03.2023

Index : Yes / No
Internet : Yes / No
Rmk

To
The Subordinate Judge, Virudhunagar.



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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
CRP(MD).No.2608 of 2022

Dated:
01.03.2023