



A.No.1098 of 2024

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in C.S.No.223 of 2023

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N.SATHISH KUMAR, J.

This application has been filed by the first defendant to implead the proposed parties as the defendants in the suit. The proposed parties are none other than the Directors of the Company.

2. It is the contention of the applicant/first defendant that the suit has been filed by suppressing all material facts. There are several transactions between the defendants and the directors. Therefore, those directors are to be impleaded as defendants.

3. I have perused the entire materials. The suit has been filed by the Company for recovery of money and if at all any materials are to be unearthed, it can be done during the Trial, by summoning necessary witnesses. As a matter of right, the defendant cannot implead the parties as party defendants in the suit. The plaintiff, being the *dominus litis*, has to chose against whom he seeks relief. Such being the position, merely, because the first defendant alleges that there are some transactions between the directors and the company, the said directors cannot be made as defendants in the suit filed by the company



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4. It is not the case of the applicant/first defendant that the proposed parties are liable to contribute or indemnify the defendants for the amount payable by the applicant to the plaintiff. Such is the case, even a third party procedure cannot be applied in this matter. Such view of the matter, this Court is of the view that the applicant lacks bonafide and the suit instituted by the Corporation or Company will be filed and verified on the behalf of that Company by any Secretary or Director or the Principal Officer of the Company as per Order XXIX of the Code of Civil Procedure which stipulates that every director need not be a party in individual capacity. Taking note of the above well settled position, this application is dismissed.

5. Written statement is filed. Post the main suit on 12.03.2024 for framing issues.

27.02.2024

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