



C.R.P.(PD).No.3636 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE

V.LAKSHMINARAYANAN

C.R.P.(PD).No.3636 of 2024

&

C.M.P.No.19769 of 2024

Manjula

...Petitioner

Vs.

1.R.Perumal Chetty

2.Saravanan

...Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the order dated 11.08.2023 passed in I.A.No.3 of 2023 in O.S.No.25 of 2023 on the file of the I Additional District Court at Namakkal.



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For Petitioner : Ms.G.Thamizharasi

ORDER

This Civil Revision petition arises against the order of the learned I Additional District Judge, Namakkal in I.A.No.3 of 2023 in O.S.No.25 of 2023 dated 11.08.2023.

2. O.S.No.25 of 2023 is a suit for recovery of money filed by the 1st respondent herein against the 2nd respondent. The case of the plaintiff is that on 06.12.2021, the 2nd respondent executed a pro note in favour of the plaintiff. On 23.07.2022, when the plaintiff / 1st respondent demanded payment from the defendant / 2nd respondent for amounts due under the promissory note, the 2nd respondent gave an evasive reply. Hence, being left with no other alternative, the plaintiff filed a suit for recovery of a sum Rs.77,83,750/- together with 18% interest per annum. He has also moved an application for attachment



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of the property belonging to the 2nd respondent in I.A.No.2 of 2023.

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3. The civil revision petitioner is the wife of the defendant / 2nd respondent. She states that her husband went on missing from 25.07.2022. Therefore, she filed an application in I.A.No.3 of 2023 to implead herself in the said suit. The application came to be dismissed. Hence, the revision.

4. Heard Ms.G.Thamizharasi for the civil revision petitioner.

5. Ms.G.Thamizharasi pleads that the husband of the civil revision petitioner has gone missing and in order to defend the suit, the civil revision petitioner wants to come on record which unfortunately, has not been considered by the learned Trial Judge. She states that the wife is residing in the property which the 1st



respondent seeks to attach. Therefore, she is a proper and necessary party to the proceedings.

6. I have carefully considered the arguments of Ms.G.Thamizharasi and perused the records.

7. In a suit for recovery of money, the presence of third party to the pro note is neither necessary nor essential. A pro note suit is decided on the basis of the proof that the plaintiff would have to give that he had advanced the loan to the defendant and the defendant in consideration thereof, had executed the pro note. In such a suit, the presence of third party, including the wife of the executant, is absolutely unnecessary. The plea that in case the suit is decreed the property in which the wife is residing might be brought for attachment



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and sale, does not make the wife a necessary party to the proceedings.

The learned Trial Judge has given cogent reasons to dismiss the application. I do not find any reason to interfere with the same.

8. Accordingly, the Civil Revision Petition is dismissed.

Consequently, the connected miscellaneous petition is closed. No costs.

09.09.2024

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To

1.The I Additional District Judge,
Namakkal.



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V.LAKSHMINARAYANAN, J.

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