



C.RP(MD)Nos.1688 and 1690 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)Nos.1688 and 1690 of 2024

and

C.M.P(MD)No.9868 and 9869 of 2024

Mahendran

... Petitioner/Petitioner/
Proposed Party in both CRPs

Vs.

1.Gandhiraj

...1st Respondent/1st
Respondent/Plaintiff in both CRPS

2.Vigneshpandi

...2nd Respondent/2nd
Respondent/Defendant in both CRPs

Civil Revision Petitions are filed under Article 227 of the Constitution of India, to call for the records pertaining to the fair and ex-order dated 07.03.2024 passed by the learned Additional District(Fast Track) Court, Theni, in I.A.No.1 of 2023 in O.S.Nos. 30 and 31 of 2020 and set aside the same.



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For Petitioner :Mr.P.R.Prithiviraj
(in both CRPs)

COMMON ORDER

These Civil Revision Petitions are directed against an order passed in the respective interlocutory applications, by which, the revision petitioner sought to be impleaded as a party defendant in the suits. The suits are filed for recovery of money against the sons of the petitioner.

2.It is the case of the petitioner that the plaintiff is a relative. There has been oral transaction between the petitioner and the plaintiff. Over a period of time since the loans accumulated, the plaintiff asked for written documents. Only as a security, his sons signed in the promissory note and that is now being used by the plaintiff and the suits for recovery of money are filed. Therefore, since only the proposed third party father is the borrower, he now seeks to get impleaded in the suit as the second defendant.



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3.The suits are filed for recovery of money based on the promissory notes, which are executed by the defendant in the suits. May be the proposed party is the father and if the defendant takes such a plea that the money is borrowed by his father, the petitioner can very well be examined as a witness in the suit and he can depose about the transactions which according to him are the facts. But in any event, when the suits are filed for recovery of money from the sole defendant in the suits, he cannot be impleaded as a party to the suit. I do not find any error in the trial Court in dismissing the impeding application.

4.The learned counsel appearing for the petitioner in support of his contentions would also rely upon the judgment of the Division Bench of this Court in ***Robust Hotels (P) ltd.,-Vs-E.I.H. Limited***, reported in ***2010(6) CTC 192***, more specifically on paragraph Nos.20 and 21 and contend that even if the petitioner third party is not a necessary party, he will be a proper party to the suit. His presence will only aid the final adjudication of the lis.



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5.I have considered the said submission made by the learned counsel for the petitioner.

6.When the suit promissory note is executed by the defendant, if at all the said defendant takes a plea that he did not borrow the money and his father Mahendran was only borrowing and he executed the promissory note as a security, then nothing prevents the said defendant from examining the petitioner as a witness and I do not see any error whatsoever in the order passed by the trial Court. Accordingly finding no merits, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30.07.2024

NCC:Yes/No

Ns

To
The Additional District
(Fast Track) Court,
Theni,



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D.BHARATHA CHAKRAVARTHY, J.

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30.07.2024