



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.143 of 2025

and

C.M.P(MD)No.948 of 2025

Bennet Yesuthas

...Petitioner/1st Respondent/Plaintiff

Vs.

1.Durai Swamy Paul Beehin

...1st Respondent/Petitioner/3rd Defendant

2.Britto Timbers Private Limited,
Represented by its Managing Director,
Arul Shoban.
S/o.Gnanasigamani,
1/30, Azhagiyamamdapam,
Mulagumoodu Post,
Mulagumoodu Village,
Kalkulam Taluk,
Kanyakumari District.

3.Arul Shoban

...2 & 3 Respondents/2 & 3 Respondents/
1 & 2 Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 08-11-2024 passed in I.A.No.3 of 2023 in C.O.S.No.1 of 2023 (Now Renumbered as O.S.No. 322/2024) on the file of the Principal District Court, Kanyakumari District at Nagercoil by allowing this Civil Revision Petition.



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For Petitioner : Mr.S.Vashik Ali

For Respondents : Mr.S.C.Herold Singh

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ORDER

The plaintiff has filed C.O.S.No.1 of 2023, on the file of the Principal District Court, Kanyakumari at Nagercoil, has filed the present revision petition, wherein the trial Court had deleted the name of the second and third defendants from the array of parties by allowing I.A.No.3 of 2023.

2.A perusal of the records reveal that the revision petitioner herein had filed the suit for the relief of recovery of a sum of Rs.61,25,000/- for his transaction with the first defendant company. The second and third defendants have been arrayed in the suit on the ground that there are the Managing Director and the Director of the said company at the relevant point of time.

3.The first defendant has already filed his counter disputing the claim. The third defendant has also filed his written statement. Thereafter, the third defendant had filed I.A.No.3 of 2023, contending that he is not a necessary party to the said proceedings on the ground that the claim has been laid as against the Private Limited Company and he was not at all the Director at the relevant point of time, when the monetary transactions took place. He further pointed out that the Director of the company is not personally liable for the



debts of the company. Accepting the said contentions, the trial Court while allowing I.A.No.3 of 2023, has passed an order deleting the second defendant also from the array of parties.

4.A perusal of the order passed by the trial Court reveals that the second defendant is also one of the Directors of the company and he has also been unnecessarily impleaded in the said suit, when the claim is made only as against the first defendant company. After deleting the second and third defendant in the suit, the trial Court has proceeded to impose a cost of Rs.25,000/- as against the plaintiff to be paid to each one of the defendants, namely, 2nd and 3rd defendants. Challenging the said order, the present revision petition has been filed.

5.According to the learned Counsel appearing for the revision petitioner, when the third defendant has filed an application to delete him from the array of parties, the trial Court was not right in deleting the second defendant also. He further contended that the trial Court had erred in law in imposing the cost of Rs.25,000/- on the plaintiff to be paid to the second and third defendant.

6.Per contra, the learned Counsel appearing for the respondents herein had contended that the second and third defendants are the Directors of the Private Limited Company and they are not personally liable in any way for the

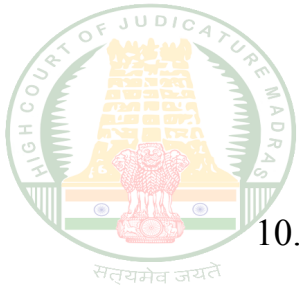


suit plaintiff. In such circumstances, they have been unnecessarily impleaded in the said suit. Therefore, the trial Court has rightly deleted them and has also imposed a cost from the plaintiff. In view of this frivolous litigation, the time line for the commercial suit cannot be maintained.

7.I have considered the submissions made on either side and perused the materials available on record.

8.As could be seen from the plaint averments, the suit has been filed for recovery of money which was advanced to the first defendant private limited company. As rightly pointed out by the trial Court, the second and third defendant who are the Directors of the said company, are not personally liable for any one of the transactions. In such circumstances, they ought not to have impleaded as defendants in the said suit. However, considering the fact that so far, the trial has not yet begun, this Court is inclined to set aside the imposition of cost upon the plaintiff.

9.In view of the above said facts, the order in I.A.No.3 of 2023, is hereby confirmed with regard to the deletion of the second and third defendant from the array of parties in the said suit. However, as far imposition of cost of Rs.25,000/- each to the second and third defendant are concerned, is hereby set aside.



10. With the above said deliberations, this Civil Revision Petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is also closed.

14.03.2025

Internet: Yes/No
Index: Yes/No
RJR

To

The Principal District Court, Kanyakumari District at Nagercoil.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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