



WEB COPY

CRP No. 680 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 680 of 2024 and

CMP No.3437 of 2024

1. G. Kalavathi
W/o. S. Gunasekar, 342-A, Co Operatives
Nagar, Putlur Village and Post,
Thiruvallur Tk and Dt.
2. P. Sathya
W/o. T.s. Pandiyan, No.8, Singapore St, Ullasa
Nagar, Putlur Village, Thiruvallur Tk and Dt.

..Petitioner(s)

Vs

Jamuna, W/o. N. Rajendran,
No.16-A, Bharathiar St, Ganesh Vista, Putlur
Village and Post, Thiruvallur Tk and Dt.

..Respondent(s)

Prayer: Civil Revision petition filed under Article 227 of Constitution of India to set aside the fair and decretal order passed in IA No.5 of 2023 in OS No.173 of 2013 on the file of the Principal District Judge, Tiruvallur dated 24.11.2023.

For Petitioner(s): Mr. K.Balaji

For Respondent(s): Mr. E.Prabu



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ORDER

This Civil Revision Petition has been filed challenging the order passed by the Trial Court, allowing the application filed by the respondent/plaintiff seeking to implead the 2nd petitioner herein as a party/2nd defendant in a suit for recovery of money.

2. The respondent/plaintiff filed a suit in O.S.No.173 of 2013 against the first petitioner herein/defendant for recovery of money, based on four promissory notes dated 28.03.2011, 31.03.2011, 21.09.2011 and 01.03.2012. The first petitioner herein, who was arrayed as sole defendant in the suit, filed written statement and resisted the suit by denying the execution of suit promissory notes.

3. The respondent herein, later, filed the instant application seeking impleadment of the 2nd petitioner herein as 2nd defendant in the suit on the ground that, by mistake, she was not added as a party in the suit. According to the respondent, the 2nd petitioner is also a borrower of the amount mentioned in the promissory notes. Hence, the said application has been filed by the respondent.



4. The first petitioner herein filed counter affidavit and resisted the application on the ground that instant application has been filed at stage of arguments, after completion of trial in the suit. The said application was allowed by the Trial Court. Aggrieved by the same, the petitioners have come before this court.

5. The learned counsel for the petitioners would vehemently contend that the second petitioner did not execute the suit promissory notes and she signed in the suit promissory notes only as a witness and in such circumstances, the Trial Court ought not to have ordered impleadment of the 2nd petitioner. Even assuming that the 2nd petitioner executed the suit promissory notes, the suit claim hopelessly barred by limitation as against the 2nd petitioner, as the promissory notes are dated 28.03.2011, 31.03.2011, 21.09.2011 and 01.03.2012, but the instant application has been filed after 10 years from the date of promissory notes.

6. The learned counsel for the respondent/plaintiff would submit that at the time of filing the suit, by inadvertentce, the name of the 2nd petitioner has not been mentioned as a party defendant and the petitioners cannot take advantage of such inadvertence. He further submitted that as per the proviso to Section 21 of the Limitation Act, the impleading petition filed by the petitioner shall be allowed and the 2nd petitioner shall be deemed to have been impleaded as 2nd defendant, on the date of filing of the suit.



7. A perusal of the suit promissory notes filed in the typed set of papers would indicate that the first petitioner alone has signed as an executant, on the revenue stamp, affixed in the promissory note. The signature of the 2nd petitioner is found only as a witness in the suit promissory notes. In the plaint averments in paragraph No.7, the respondent/plaintiff categorically admitted that the first petitioner's mother namely P.Sathya (the 2nd petitioner) signed the promissory notes only as an attester. In view of the clear admission by the respondent/plaintiff in her pleadings that the 2nd petitioner signed the promissory note as an attester and also the fact that the 2nd petitioner put her signature as an attester only in the suit promissory notes, this court feels that the 2nd petitioner is not at all necessary party to the suit, as she never executed the suit promissory notes. Therefore, the impugned order passed by the Trial Court is liable to be set aside.

8. Accordingly, this civil revision petition is allowed and the impugned order passed by the Trial Court is set aside. Consequently, I.A.No.5 of 2023 in O.S.No.173 of 2013 is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Principal District Judge,
Tiruvallur.



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S.SOUNTHAR, J.

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