IN THE COURT OF THE I ADDITIONAL SUBORDINATE JUDGE, VILLUPURAM.

PRESENT : Thiru. A. Tamilselvan, M.L.,
I Additional Subordinate Judge, Villupuram.
Wednesday the 16th day of April 2025

IA.No.359/2018
in
O.S.No.31/2005
(CNR.No.TNVP02-000077-2005)

A. Shankar ..... Petitioner/Plaintiff

//Vs//

1. S. Palanivelu
2. S. Rajavelu
3. S. Kumaravelu
4. P.S. Rajasekaran
5. Aakash Automobiles Pvt. Ltd., by its Managing Director.
6. Aakash Auto Pvt. Ltd., represented by its Managing Director
7. Bajaj Auto Limited, by its Regional Manager, Chennai.
8. Axis Bank Ltd., represented by the Senior Manager
9. State Bank of India, Siruthozhil Branch, Pondicherry by its Branch Manager.
10. Santhi
11. Meenakshi
12. Jagadeesan ….. Respondents/Defendants

This petition is filed on 23.10.2018 and taken on file and came up for final hearing on 28.03.2025, in the presence of Tr.T.S.Subramanian, counsel for the petitioner and Tr.V.Dayanandam, counsel for the respondent no.1 to 4 and Tr.B. Baskaran, counsel for the respondent no.9 and the respondents no.5 to 8, 10 to 12 called absent and set exparte and upon perusal of entire case records and upon hearing petitioner side and having stood over for consideration till this day, this court delivered the following...

ORDER

This Petition filed Under Order 1, Rule 10 r/w. 151 of CPC praying to implead the persons described as defendants 5 to 12.

2) Short and Summary of the affidavit and petition is as follows :-

The petitioner is the plaintiff in the suit and he have filed the suit for dissolution of the firm (i.e.) Villianoor Associates, for accounts, appointment of a receiver and for injunction restraining the petitioners from dealing with the property and effects of the partnership of the firm and the respondents 1 to 4 have converted the partnership assets to Aakash Bajaj Aakash Automobiles Private Limited Company and Aakash Auto Pvt. Ltd., in order to dupe and defraud the petitioner and he have also filed IA.No.353/2005 for Injunction restraining the respondent from retaining receiving disposing of, or otherwise dealing with the property and effects of the partnership firm Villainoor Associates at No.61, Ambalathadiyar Madam Street, Pondicherry - 1 and at No.63/A Chennai Main Road, Opp. G.H. Villupuram and IA.No.354/2005 for appointment of the receiver and IA.No.355/2005 for injunction restraining the respondent their men and servants from encumbering or alienating the under mentioned property injunction as also been granted in IA.No.353/2005 and however the respondents no.1 to 4 filed IA.No.472/2005 to reject the plaint under Section 8 of the Arbitration Act and that was dismissed on 19.07.2005 and they preferred C.R.P.No.1113/2005 and ultimately withdrew the same on 11.10.2006 with liberty to file an application under Section 8 of the Arbitration Act and later they filed

IA.No.304/2007 under Section 8 of the Arbitration Act and that application was also dismissed by this Court and again they preferred C.R.P.No.2393/2012 and finally withdrew the same on 31.07.2012 and again filed IA.No.689/2013 under Section 8 of the Arbitration Act which was finally dismissed on 20.07.2018 and he have filed IA.No.512/2005 for impleading the parties and in fact, he have also filed the CRP. No.3467/2007 for earlier disposal of the IA and Madras High Court by the order dated 08.11.2011 directed this Hon'ble Court to dispose of the IA.No.512/2005 within a period one month from the date of receipt of the order copy and however the respondents 1 to 4 by filing one after another application under Section 8 Arbitartion Act successfully dragged on the IA.No.512/2005 without any progress till 20.07.2018 when the IA.No.689/2013 was dismissed and in the meantime they have changed the name of the partnership firm as Aakash Automobiles Private Limited and Aakash Auto Private Ltd., and transferred the transactions to Axis Bank Ltd. and State Bank of India Siruthozhil Branch from the Bank of Maharashtra and hence in order to have a comprehensive application to implead all the parties he have made an endorsement for dismissal of the IA.No.512/2005 to be dismissed as not pressed and now he is filing this comprehensive application to implead the firms and the banks and the parties in whose name the properties of the firm had been transferred and the business as dealer in Bajaj Vehicle is carried on in the premises bearing numbers 61, 63, 65 Ambalathadiyar Madam Street, Pondicherry - 1 under one roof and later expanded to Tamil Nadu also and they are the dealers for Bajaj vehicles and promoting the sales of two wheelers, three wheelers and spare parts and they also maintain the services of the vehicles and thus business of the partnership concern is being carried on at 61, 63, 65 Ambalathadiyar Madam Street, Pondicherry - 1 to cater needs of the customers of Pondicherry State and at No.63/A Chennai Main Road, Opposite G.H., Villupuram to cater the needs of the customers of Tamil nadu and now it has been shifted to Trichy Main Road, near Elumalai Polytechnic and thus the respondents 1 to 4 wanted to practically exclude the plaintiff from the business and with that object in mind they were fabricating the accounts and diverting the income fraudulently for their own purpose and they were acquiring properties either in their individual name or in the name of their wives from and out of the income generated from the partnership firm and the transactions were not informed to the plaintiff nor was he consulted about those transactions and furthermore, the respondents 1 to 4 refused to permit him to scrutinize the records and there by wanted to keep him in dark and thus they were evading to furnish the accounts and the respondents 1 to 4 do not have any other source of income apart from the income generated from the partnership firm and they have been purchasing the property in their name, in the name of their wives and thus the respondents 1 to 4 have been dishonestly and fraudulently diverting the funds of the partnership firm for their personal benefits and for purchase of properties in their name or in the name of their wives to the detriment of the partnership firm without properly accounting the same and apart from the respondents 1 and 2 have promoted one Aakash Automobiles Private Limited and Aakash Auto Private Ltd., and thereby closed the Villianoor Associates and thereby totally diverted the funds and using the assets of the Villianoor Associates partnership concern for their own business and the business is the same and they are dealing with Bajaj Vehicles in collusion with Bajaj Auto Limited and thus, the respondents 1 to 4 are guilty of gross misconduct rendering it impossible for the plaintiff to continue as the partner and thus the misbehavior of respondents 1 to 4 to exclude him from the management of the affairs of the firm, their dishonesty in conducting the affairs of the business and diverting the funds of the partnership for their personal benefit and the utilization of the assets of the business for some other concern renders it impossible for him to continue as a partner along with the respondents 1 to 4 and hence, the suit has been filed for the dissolution of the partnership firm namely Villianoor Associates having office at 61, 63 and 65, Ambalathadiyar Madam Steet, Pondicherry for accounts of the firm, for appointment of receiver and for injunction to restrain the defendants from restraining, receiving or otherwise dealing with the property and the effects of the partnership and for other relief and as apprehended by the immediately after the suit the Mr.Palanivel had alienated the properties purchased in the name of the firm on 11.06.1999 to the name of their wife i.e. Tmt. Meenakshi the 11th respondent under the registered sale deeds dated 28.04.2005 and Mr. Palanivel had conveyed the property belonging to the partnership firm to one Jagadeesan, S/o. Arjunan under Registered sale deed dated 27.04.2005 and he has also to be impleaded as the party to the suit and apart from that they have also floated the company by name Aakash Automobiles Pvt., Ltd. the 5th respondent and thereby they are practically diverting the business to the newly started company by name Aakash Automobiles Pvt. Ltd. , and in fact they are running the same business in the same premises and in fact Bajaj Auto Ltd., are actually conniving with the respondents 1 to 4 more particularly 1 and 2 to run the business and divert the funds and goodwill of the Villianoor Associates to that of Aakash Automobiles Pvt., Ltd., and they have raised the loans with the Axis Bank Ltd., with the help of Meenakshi and Shanthi utilizing the partnership firm assets and similarly they have also raised the loans with State Bank of India Siruthozhil Branch, Pondicherry and hence, the respondents 5 to 12 who are not parties to the partnership deed are also liable to answer and account for the fraud perpetuated by the respondents 1 to 4 and for taking proper accounts and thus after the suit they have floated a new company and alienated the properties and these changes have taken place with the active assistance and connivance of the respondents 5 to 12 and hence, to unearth the fraud and to account for the diversion of the funds of the partnership firm they have to be impleaded as parties to the suit and they are proper and necessary parties and the dispute has to be resolved only in their presence as otherwise it will lead to multiplicity of proceedings and there may not be finality to the adjudication and hence, interest of justice requires that they have to be impleaded as partes to the suit as otherwise he will suffer irreparable loss and it is therefore prayed that this Hon’ble Court may be pleased to implead the persons morefully described in the accompanying applications as defendants 5 to 12.

3) Short and Summary of the counter filed by 1st respondent is as follows (Adopted by 2 to 4 respondents):-

The petition filed by the petitioner to implead the Respondents 5 to 12 as Defendants 5 to 12 in the suit is neither just nor proper and the same is liable to be dismissed in limine and the allegations in the paragraph 2 of the affidavit that the Petitioner have filed the suit for dissolution of the firm (i.e) Villianoor Associates, for accounts, appointment of a receiver and for injunction restraining the Petitioners from dealing with the property and effects of the partnership of the firm and the Respondents 1 to 4 have converted the partnership assets to Aakash Bajaj Aakash Automobiles Private Limited Company and Aakash Auto Pvt Ltd, in order to dupe and defraud the Petitioner are all false and specifically denied by the 1" Respondent and the allegations in the paragraph 7 of the affidavit that the name of the partnership firm as Aakash Autombiles Private Limited and Aakash Auto Private Ltd, was changed and transferred the transactions to Axis Bank Ltd and State Bank of India Siruthozhil Branch from Bank of Maharastra and hence in order to have a comprehensive application to implead all the parties that Petitioner have made in endorsement for dismissal of the I.A.No.512/2005 to be dismissed as not pressed and he is filing the comprehensive application to implead the firms and the banks and the parties in whose name the properties of the firm had been transferred. The Petitioner had never intended to get on with the application in 1.A. 512/2005 to implead the parties but throwing the blame with this application with same averments in the entire application in I.A 512/2005 and he had given up Bank of Maharastra and added Axis Bank, Puducherry and State Bank of India, Siruthozhil Branch, Puducherry in order to cause trouble and hardship to the respondents and the allegations in the paragraph 8 of the affidavit that the Respondents were fabricating the accounts and diverting the income fraudulently for their own purpose and they were acquiring properties either in their individual name or in the name of their wives and that the transactions were not informed to the plaintiff nor he was consulted about those transactions are all false and specifically denied by the Ist respondent and the allegations in the paragraph 9 of the affidavit that the Respondents 1 to 4 refused to permit the petitioner to scrutinize the records and thereby wanted to keep him in dark, that they were evading to furnish the accounts, that the respondents 1 to 4 do not have any other source of income apart from the income generated from the partnership firm, that they have been purchasing in the property in their name, in the name of their wives and thus the respondents 1 to 4 have been dishonestly and fraudulently diverting the funds of the partnership firm for their personal benefits and for purchase of properties in their name or in the name of their wives to the detriment of the partnership firm without properly accounting the same are all false and specifically denied by the Ist respondent and the allegations in the paragraph 10 of the affidavit that the respondents 1 and 2 have promoted Aakash Autombiles Private Limited and Aakash Auto Private Ltd and thereby totally diverted the funds and using the assets of the Villianoor Associates partnership concern for their own business and business is the same and they are dealing with Bajaj vehicles in collusion with Bajaj Auto Limited and that the respondents 1 to 4 are puilty of gross misconduct rendering it impossible for the petitioner/plaintiff to continue as the partner are all false and specifically denied by the Ist respondent and the allegations in the naragraph 11 of the affidavit that the misbehavior of respondents 1 to 4 to exclude the petitioner from the management of the affairs of the firm, they dishonestly conducting the affairs of the business and diverting the funds of the partnership for their personal benefit and the utilization of the assets of the business for some other concern renders it impossible for the petitioner to continue as a partner along with the respondent 1 to 4 are all false and specifically denied by the Ist respondent and the allegations in the paragraphs 13 and 14 of the affidavit that Mr.Palanivel had alienated the properties purchased in the name of the firm on 11.6.1999 to the name of his wife Tmt. Meenakshi the 11th respondent under the registered sale deeds dated 28.4.2005, that Mr.Palanivelu had conveyed the property belong to the partnership firm to one Jagadeesan son of

Arjunan under registered sale deed dated 27.4.2005 after the suit and he has also to be impleaded as the party to the suit, that they have also floated the company by name Aakash Automobuile Pvt. Ltd., the 5th respondent and thereby they are practically diverting the business to the newly started company by name Aakash Automobiles Pvt. Ltd., that they are running the same business in the same premises, that Bajaj Auto Ltd. are actually conniving with the respondents 1 to 4 more particularly 1 and 2 to run the business and divert the funds and goodwill of the Villianoor associates to that of Aakash Automobiles Pvt. Ltd., and they have raised loans with Axis Bank Auto Ltd., with the help of Meenakshi and Shanthi utilizing the partnership firm assets and they have also raised the loans with State Bank of India Siruthozhil Branch, Pondicherry are all false and specifically denied by the Ist respondent and the the partnership firm namely Villianur Associates had been dissolved long back and it is not in operation and the allegations in the paragraph 15 of the affidavit that respondents 5 to 12 who are not parties to the partnership deed are also liable to answer and account for the fraud perpetuated by the respondents 1 to 4 and for taking proper accounts are all false and specifically denied by the Ist respondent and allegations in the paragraph 16 of the affidavit that the Respondents 1 to 4 have floated a new company and alienated the properties, that these changes have taken place with the active assistance and connivance of the Respondents 5 to 12, to unearth the fraud and to account for the diversion of the funds of the partnership firm they have to be impleaded as parties to the suit, and they are proper land necessary parties and the dispute has to be resolved only in their presence otherwise it will lead to multiplicity of proceedings and there may not be a finality to the adjudication are all false and specifically denied by the Ist respondent and the the petitioner can no longer claim as a live and working partner in the partnership firm M/s. Villianoor Associates as per resolution passed by the majority of partners constituting M/s. Villianur Associates on 18.04.2000 whereby expelling the petitioner from the partnership firm M/s. Villianur Associates as Partner and that the petitioner has been duly informed about such expulsion in and by proceedings bearing Ref.No.69/DA/04-00 dated 20th April 2000 by Villianur Associates Firm through its Managing Partner being the first Respondent herein and the petitioner has received the said notice of expulsion dated 20.4.2000 along with Resolution passed in that behalf by the Registered Villanur Associates Firm and the Respondents have observed the formalities before expulsion of the petitioner from the partners ship Villianur Associates as partner and the petitioner has not challenged the notice of expulsion dated 20.4.2000 and the Resolution of Villanur Associates dated 18.4.2000 before any Court of law hithereto and the petitioner had issued the notice dated 1.5.2000 in response to expulsion proceedings and notice to the Respondents herein whereby the petitioner has nominated one Mr.P Ganesan as his Arbitrator and in that notice itself he had exercised his right for dissolving the partnership firm. Mr.P.Ganesan who is a Chartered Accountant had verified the accounts and seemed to have informed the petitioner about the statement of accounts which proved to be the claims of the petitioner against the Respondents as unjustifiable and untenable and Articles 5 of the Limitation Act stipulates three years duration for filing suits for accounts and the limitation period beings to run from 1.5.2000 onwards for filing the suit for accounts and the suit in O S.31/2005 has been filed before this Hon'ble Court on 20.4.2005 and therefore the claim for relief for accounts is barred by law of limitation and as regards claim for dissolution of partnership by the petitioner before this Hon'ble Court, the limitation period commences from 1.5.2000 onwards as per the letter addressed to the Respondents by the petitioner and as per Articles 113 of the Limitation Act, suit should have been filed within three years from 1.5.2000 and the petitioner has not exercised his right to approach the Court of law within three years and the period of file suit has expired on 1.5.2003 since the suit has been filed in O.S. 31 of 2005 before this Hon' ble Court on 20.4.2005 long after the expiry of limitation period, this Hon' ble Court is not having lawful jurisdiction to entertain this suit in O.S. 31 of 2005 which is barred under law from examining the claims in as much as the law of limitation is based on public policy which debars the suit or claims being brought before Court of law after the expiry of period prescribed under law the petitioner is restrained by estoppel on his own conduct in approaching this Hon'ble Court by filing this suit in O.S. 31/2005 against the Respondents after having exercised his right to seek redressal of his claims against the respondents by way of arbitration in and by notice dated 1.5.2000 issued to the Respondents by the petitioner. In that view of the matter as well, the suit filed by the petitioner in O.S. 31/2005 against the respondents is liable to be rejected and the petitioner has distorted the whole picture before this Hon'ble Court with a view to prejudice the mind of this Hon'ble Court against the Respondents. The business concern has been dealt with by the Respondents as per law and accounts were duly audited. No property has been purchased in the names of wives of the Respondent from and out of the income of the partnership firm Mrs.Shanthi and Mrs. Meenakshi have got properties in their own name respectively by way of Gift and Settlement deeds effected in their favour way back on 6.8.2002 and 13.8.2002 and as per operation of law under section 14(1) of Hindu Succession Act, 1956, the properties that were devolved upon females would take the same as absolute property in their favour without any hindrance from any quarter and without referring to actual averments and antecedent titles made in the gift deed dated 6.8.2002 and settlement deed dated 13.8.2002 to and in favour of Mrs.Meenakshi and Mrs. Shanchi, the petitioner herein has made frivolous and vexatious allegations against them as if the properties stand in their name have been purchased from and out of the income of the partnership and Ist Respondent specifically denies all the allegations in the affidavit except those that are admitted herein and Ist Respondent therefore prays that this Hon'ble Court may be pleased to dismiss the petition with costs.

4) Short and Summary of the counter filed by 9th respondent is as follows :-

The 9th defendant/respondent denies all the averments and ailegations stated in the petition and the same is subject to the strict proof of evidence before the court of the law and the petition filed against 9th defendant is void in the interest of law because the cause of action is not at all pertaining to the 9" Defendant and the Loan Account of Plaintiff/Petitioner was closed and settled on 23.08.2016 and thereby 9th defendant has no way relevant to add to this suit as party to the proceedings. it is pertinent to state that the account was closed in state bank of India and the plaintiff/Petitioner loan was take over from 9th Defendant to 8th defendant (Axis Bank) and the 9th defendant/respondent therefore humbly prays before this Hon'ble Court that to dismiss this impleading petition against to the 9 defendant State Bank of India as the 9th defendant/respondent as party to the suit filed by Petitioner/Plaintiff

5. The respondent no.11 called absent and set exparte on 22.06.2022. The respondent no.5 to 8, 10, 12 called absent and set exparte on 14.03.2025.

6. In this petition, there is no oral and documentary evidence let in by both sides. Both side argument heard. Available case records are perused.

7. Point for consideration :-

Whether the petition could be allowed or not ?

8. Point :-

The leanred counsel for the petitioner submitted that the petitioner is the plaintiff in the suit and he filed the suit against the existing defendants no1 to 4 for resolution of the firm namely Villianoor Associates and consequential prayers. The learned counsel submitted further that after filing the suit the existing defendants no.1 to 4 divert the firm assets into various names by creating new firms i.e. proposed defendants no.5 to 6 and alienate the properties in favour of proposed defendants no.10 to 12 and also shifted the transaction and accounts maintained bank proposed D9 to proposed D8 bank. The learned counsel submitted further that though they are not a party to the firm but they are dealing the property of the firm and transaction of the firm, so they are necessary party to adjudicate the suit in effective manner.

9. Per contra, the learned counsel for the existing defendants no.1 to 4/R1 to R4 submitted that the petitioner/plaintiff now not a working partner in the partnership firm M/s. Villianoor Associates since as per the resolution passed by the majority of the partners of the said firm on 18.04.2000 and expulling the petitioner from the partnership firm. The learned counsel submitted further that the expulsion of the petitioner has been duly informed to the petitioner on 20.04.2020 through its managing partner/1st respondent herein. The learned counsel submitted further that though the petitioner received the notice of expulsion dated 20.04.2000 he has not challenged the notice dated 20.04.2000 and the resolution dated 18.04.2000 before any court of law, hence the petitioner not entitled to question the affairs of the firm, in such circumstance petitioner filed this petition to add some persons as party to the suit without any cause of action against them. The leanred counsel submitted further that since the petitioner has no cause of action to proceed the case and the suit barred by limitation filed the petition again petition only to prolong the suit and get unfair advantage. The learned counsel submitted that since there is no cause of action against the proposed parties and they are unnecessary parties , the petition liable to be dismissed and he prayed dismissal of the petition with cost.

10. Upon careful consideration and perusal of records, it reveals that the plaintiff filed a suit against the 1 to 4 defendants for dissolution of the firm, namely "Villianoor Associates," for accounts, appointment of receiver and restrained them from dealing with the property that belongs to Partnership Firm. Subsequently, file a

petition under Order 1 Rule 10 CPC to add eight proposed parties as D5 to D12 defendants, stating that they have changed the name of the Partnership Firm as Aakash Automobiles Pvt. Ltd (D5) Aakash Auot Private Limited (D6) Bajaj Auto Limited (D7) and transferred transaction from State Bank of India Siruthozhil (D9) to Axis Bank Ltd (D8). Originally, Firm "Villianoor Associates," dealer of Bajaj Auto Ltd (D7), now D7 conniving with D1 to D4 and dealership of Bajaj vehicles and business carried on No 61,63, and 65 Ambalathadiar Maadam Street, Pondicherry 1, and at 63A Chennai Main road, opposite to GH, Villupuram now shifted to Tirchy main road near Elumalai Polytechnic excluding the petitioner/ plaintiff. It is stated further that after suit, D1 had alienated the Firm's properties to D11 and D12. D10 is the wife of D2. The main allegations of the pettioner are after the suit D1 to D2 divert the Firm's funds by creating new firm and alienation some properties and change the transaction bank to exclude the plaintiff from partnership firm and prayed though the D5 to D12 not party to the partnership deed liable to answer and account for the fraud perpetuated by the D1 to D4 and prayed to allow the petition.

11. D1 to D4 filed objection, and their main objection is that the firm Villianoor Associates dissolved long back and the Plaintiff already expelled from Villianoor Associates Partnership Firm through resolution dated 18.4.2000 and the petitioner/ plaintiff received the notice of expulsion dated 20.4.2000 along with resolution but the plaintiff did not challenged the notice and resolution before any court of law. Hence, D1 to D4 prayed dismissal of the petition.

12. Proposed D9/R9 herein State Bank of India Siruthozhil has filed its objection stating that no cause of action against proposed D9 since the loan account of the plaintiff was closed and settled on 23.8.2016, and proposed D9 is not relevant to add to this suit. In this petition D5 to D8 and D10 to D12 set exparte.

13. Order 1 Rule 10(2) of the CPC empowers the court to add or remove parties at any stage of the proceedings. This provision ensures that all necessary and proper parties are before the court to enable a comprehensive and effective adjudication of the matters in dispute. It is a settled position of law that necessary parties mean individuals who ought to have been joined in the suit for a complete and effective decision, their absence would prevent the court from passing an effective decree and proper parties means individuals whose presence may not be essential for passing an effective decree but are necessary for a complete and final decision on the questions involved in the case. The Hon’ble Supreme Court in Kasturi vs. Iyyamperumal & Ors. emphasized that the addition of parties should be to ensure that all disputes related to the subject matter are effectively and completely adjudicated upon.

14. To substantiate the petition to add proposed defendants 5 to 12, the petitioner should demonstrate that these proposed parties have a direct and substantial interest in the Firm's affairs or its property and that their involvement should be necessary to resolve all disputes comprehensively and to avoid multiple litigations. No doubt, if the proposed defendants are partners, creditors, or have legal claims related to "Villianoor Associates," their inclusion is justified. But, the admitted case of the petitioner is that all the proposed parties are not parties to the Partnership deed. It is not a case of the petitioner that they are creditors or have legal claims related to the Firm. The petitioner claims that the proposed parties are accountable to the Firm. The plaintiff is generally the master of the suit (dominus litis), and the court has the discretion to add parties whose involvement is deemed necessary for a just decision. This principle was highlighted in Mumbai International Airport Pvt. Ltd. vs. Regency Convention Centre & Hotels Pvt. Ltd.

15. The core allegation advanced by the learned counsel for the plaintiff/petitioner is that after the suit was instituted, D1 to D4 diverted the firm's funds by creating a new firm and alienated certain properties, besides changing the banking channel to exclude the plaintiff. The learned counsel for the plaintiff/petitioner contended further that although the proposed parties D5 to D12 are not signatories to the partnership deed, they are liable to account for the fraud perpetrated by D1 to D4.

16. The learned counsel for the defendants D1 to D4 contended that the firm "Villianoor Associates" was dissolved long ago and that the plaintiff was expelled by a resolution dated 18.4.2000 with notice dated 20.4.2000, and the plaintiff never challenged the said resolution in any court. Therefore, the learned counsel prays for the dismissal of the petition. Additionally, proposed D9 State Bank of India, Siruthozhil, objects to the petition, stating that there is no cause of action against it since the plaintiff's loan account was closed and settled on 23.8.2016. The remaining proposed defendants (D5–D8 and D10–D12) have appeared ex parte.

17. Now, the question before this court is (a) whether the petition for adding additional parties under Order 1 Rule 10 CPC is maintainable. (b) Whether the plaintiff's allegations, particularly those concerning the diversion of funds and the alienation of firm properties, can be sustained because of his own inaction regarding the expulsion resolution. (c) Whether the objections raised by D1 to D4 and proposed D9 are well-founded. As stated above, Order 1 Rule 10 CPC empowers the court to add or drop parties to ensure that all persons necessary for a complete adjudication of the subject matter are before the court. In Softronics Ltd. v. State of Karnataka and similar authorities, the Hon'ble Supreme Court has emphasized that a party's inclusion is justified only if it is shown that their presence is necessary to resolve all disputes conclusively. In this petition, the plaintiff seeks to add proposed D5 to D12

on the ground that they have, by their conduct (changing the firm's name, transferring banking operations, and allegedly colluding with D1 to D4), further contributed to the wrongful diversion of the firm's funds and assets. A critical issue is the fact that the plaintiff was expelled from the firm through a resolution dated 18.4.2000, with notice served on 20.4.2000, which the plaintiff did not challenge before any forum. The defendant no.1 to 4 filed their objection on 27.10.2021 stating the expulsion of petitioner and notice issued to the petitioner but the petitioner did not filed any reply to deny the same. So the expuling the petitioner from the partnership firm M/s. Villianorr Associates Partner on 18.04.2000 and the petitioner informed about such expulsion on 20.04.2000 is deemed to be admitted by the petitioner/plaintiff. The doctrine of estoppel (Ramchandra Vinayak Joshi v. S. G. Ajgaonkar) holds that a party who fails to contest or challenge a resolution affecting his rights is precluded from later reviving the same claim. Here, the plaintiff's inaction in contesting his expulsion weighs heavily against the maintainability of his petition, as it effectively concedes that his rights under the partnership may have been terminated by the operation of law. The objection raised by proposed D9 is that the plaintiff's loan account with the State Bank of India, Siruthozhil, was closed and settled on 23.8.2016. In the absence of any continuing financial relationship or cause of action against proposed D9, it is difficult to sustain its inclusion as a defendant. Similarly, while the proposed defendants D5, D6, D7, D8, D10, D11, and D12 are invoked based on various alleged transactions (change of firm name, transfer of transactions, and alienation of property), their involvement appears tangential when the fundamental controversy regarding the plaintiff's status in the firm is in dispute.

18. The plaintiff's primary claim rests on his right as a partner in "Villianoor Associates" – a right that he effectively forfeited by not challenging his expulsion in 2000 and the petition fails on its merits. The additional allegations of fraud and diversion of funds, though serious, cannot be sustained when the plaintiff's standing

to enforce his rights in the firm is already nullified by his acquiescence to the expulsion. Moreover, the inclusion of additional parties under Order 1 Rule 10 CPC is inappropriate when the substantive cause of action against these parties is diluted by the non-existence (or dissolution) of the firm as a continuing legal entity in which the plaintiff had a stake.

19. For the reasons stated above, this Court holds that: (a) The petition, including the prayer to add defendants D5 to D12 under Order 1 Rule 10 CPC, is not maintainable because the plaintiff's claim is vitiated by his failure to challenge the expulsion resolution of 18.4.2000. (b) The objection of defendants D1 to D4, asserting that the firm "Villianoor Associates" was dissolved and that the plaintiff had been expelled (with notice unchallenged), is well-founded, thereby barring the plaintiff's claim. (c) The objection of proposed D9 is also sustained, as there is no cause of action against it given that the loan account was settled on 23.8.2016 and decided the point accordingly.

In the result, this petition is dismissed. No costs.

Dictated to the Steno-Typist directly, typed in computer by her, corrected and pronounced by me in Open Court, this the 16th day of April 2025.

Sd/-A.Tamilselvan,
I Additional Subordinate Judge,
Villupuram.

List of Petitioner side Witness and Exhibit :-

(Nil)

List of Respondents side Witness and Exhibit :-

(Nil)

Sd/-A.Tamilselvan,
I Additional Subordinate Judge,
Villupuram.