

cpc S. 47 - execution of decree - Impleadment of necessary party - Suit for specific performance filed by decree holder - Not bad for want of impleadment of Bank Manager with whom judgment debtor had some transaction

Under Section 47 of the Code of Civil procedure, the main plea raised by the revision petition/judgment debtor was that the suit for specific performance filed by the decree holder was bad for want of impleadment of the necessary party namely, the Bank Manager. Ex facie and prima facie the said plea is not tenable under law and prima facie the said Bank Manager with whom the judgment debtor had some transaction is having nothing to do with specific performance suit. Hence, there is nothing wrong in the order passed by the lower Court. It is not that in all cases blindly, the Court is expected to number application filed under Section 47 of the Code of Civil Procedure and deal with it; if prima facie, no case is made out, then the lower Courts are not enjoined to mechanically number it and waste its judicial time.

(A. L. Helan Christina Mary v. Sivaganesh; AIR 2012 Mad 249)

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