



C.S.No.290 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 19.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.290 of 2004

M/s.Peevees Exim Company Private Ltd.,
Peevees Building
Nilambur – 679 329
Malappuram District
Kerala

.. Plaintiff

/versus/

1.B.S.Krishnan
2.B.S.Shanmugam
3.B.S.Chandrasekar

4.M/s.L.S.P.Agro Limited
Registered Office
No.36, St.Mary's Road,
R.A.Puram, Chennai – 600 028.

.. Defendants

This Civil Suit is filed under Order XXXVII, Rule 1 of CPC read with Order VII Rule 1 of Original Side Rules, prayed for a judgment and decree against the Defendants:-



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a).Directing the defendants 1 to 3 to pay a sum of Rs.3,94,72,726/- as guarantors of the 4th defendant in respect of RBD Palmolein sole and supplied to the 4th defendant.

b).For Costs of this suit.

For Plaintiff	: Mr.R.Venkatavaradan
For D1 & D4	: Ms.P.G.Aiswariya
For D2 & D3	: set ex parte

JUDGMENT

The learned counsel for the plaintiff filed a following memo dated 24.09.2024:

“The plaintiff submits as recovery of moneys from the defendants in the event of a decree being passed in its favour will be difficult, the plaintiff is filing the instant Memo to seek for permission of this Hon'ble Court to withdraw the above suit.”

2.The 1st and 4th defendants had filed a reply to the memo and let me extract below that also in entirety:



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“1.The plaintiff has filed a memo dated 24.09.2024 seeking permission of this Hon'ble Court to withdraw the above stated suit, C.S.No.290 of 2004, on the ground that recovering money from the defendants herein will be difficult for the plaintiff in the event of a decree being passed.

2.The plaintiff in its above stated memo has thoroughly suppressed the fact that towards satisfaction of the ex-parte decree dated 28.05.2005 passed by this Hon'ble Court in the present suit, the plaintiff got the properties of the 1st defendant conveyed in its favour by fraud, force and threat (more fully described in the schedule mentioned in A.Nos.1277 & 1288 of 2020 in C.S.No.290 of 2004). The afore said ex-parte decree was itself was subsequently set-aside by an order dated 12.03.2018 passed by this Hon'ble Court in A.No.841 of 2018 in C.S.No.290 of 2004.

3.In view of the above stated order dated 12.03.2018 passed by this Hon'ble Court setting aside the said ex-parte decree, a valuable right has accrued to the 1st and 4th defendants for seeking restitution of the above-mentioned properties and contesting the suit by disproving the false and unjust claims made by the plaintiff. These defendants indeed had filed A.Nos.1277 of 2020 (along with the other connected applications) in C.S.No.290 of 2004 seeking restitution of the said properties amongst other



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reliefs. This Hon'ble Court by its common order dated 03.02.2021 dismissed the above stated applications, against which the 1st and 4th defendants have preferred O.S.A.No.207, 208 and 210 of 2025, as well as a CMP for stay of the present suit. The same is likely to be listed soon.

4.The plaintiff without satisfying the conditions mentioned under Order XXIII Rule 1 of the Code of Civil Procedure 1908, now at the time of trial, in order to defeat right of these defendants to proceed with the suit, is attempting to withdraw the same. The plaintiff by seeking to withdraw the present suit is in effect trying to efface without any trace its act of unjustly retaining properties that are liable to be restored to the 1st defendant. In the event of this Hon'ble Court entertaining the memo dated 24.09.2024 and granting the relief as prayed for, the 1st and 4th defendants will be left remediless before the Hon'ble Court. More so, any amount of cost that may be ordered by this Hon'be Court would not compensate these defendants, as their very right to have access to this Hon'ble Court for seeking justice would be permanently denied.

It is therefore prayed that this Hon'ble Court may record the above stated objection / reply to the Memo dated 24.09.2004, pass appropriate order(s) and thus render justice.”

3.The learned counsel for the plaintiff claimed that the plaintiff



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as the dominus litis had instituted the suit and in view of the reasons stated in the memo, the plaintiff is seeking permission to withdraw the suit. There is no condition attached. There is no condition sought. There is no liberty sought to proceed further against the defendants. It is a withdrawal simpliciter.

4.The learned counsel for the defendants claimed that the plaintiff had derived advantage from the pendency of the suit and that the defendants had filed A.No.1277 of 2020 seeking restitution of properties which the plaintiff had the benefit of obtaining. But that issue cannot be intermingled when the plaintiff seeks to withdraw the suit. Leave is granted to the plaintiff to withdraw the suit. The learned counsel for the plaintiff also made the following endorsement:

“Withdrawn on 19.06.2025.”

5.In view of the above, the suit is dismissed as withdrawn. No costs.

19.06.2025

smv

Neutral citation : Yes / No

Index : Yes / No

Speaking order : Yes / No



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