



Rev.Appln.No.51 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

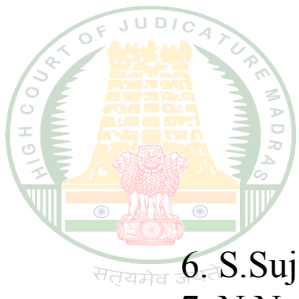
DATED: 26-08-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

Review Application No.51 of 2024 in CRP No.3519 of 2023

1. Shri Dhanalakshmi Spinnintex Pvt., Ltd.,
having registered office at
S.F.No.226/3, Avinashi Road,
N.H.47, karumathampatti,
Coimbatore – 641 659
rep. By its Managing Director,
Thiru.C.Natarajan
2. Shri Dhanalakshmi Green Energy India
Pvt., Ltd.,
Having registered office at
S.F.No.226/3, Avinashi Road,
N.H.47, karumathampatti,
Coimbatore – 641 659
rep. By its Managing Director,
Thiru.C.Natarajan
3. Shri Dhanalakshmi Exim
A partnership Firm having
registered office at
S.F.No.226/3, Avinashi Road,
N.H.47, Karumathampatti,
Coimbatore – 641 659
rep. By its Managing Director,
Thiru.C.Natarajan
4. C.Natarajan
5. N.Leelavathy



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6. S.Sujitha Siddharth

7. N.Navanya

.... Petitioners

Vs

1. Sivasubramaniam

2. Tamilnadu Mercantile Bank Ltd.,
Coimbatore Main Branch
No.1432, Ground floor,
Akshya Orbit 11, Trichy Road,
Coimbatore – 641 018

3. Sivachandran
Assistant Manager,
Tamilnadu Mercantile Bank Ltd.,
Coimbatore Main Branch,
No.1432, ground floor,
Akshya Orbit 11, Trichy road,
Coimbatore – 641 018

4. Vinoth @ Vivek kumar

5. Kannan

6. Kalaivani

7. Puspharani

... Respondents

Review Application filed under Order XLVII Rule 1 Read with
Section 144 of Civil Procedure Code to review the order dated 17.11.2023 in
CRP No.3519 of 2023 and CMP No.22014 of 2023.

For Petitioners: Ms.AL.Gandhimathi
Senior Counsel
For Mr.L.Palanimuthu
For Respondents: Mr.M.R.Thangavel
For R.1
Mr.V.Chandrasekaran
For R.2



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ORDER

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Heard Ms.AL.Gandhimathi, learned Senior Counsel for the petitioners and Mr.M.R.Thangavel, learned counsel for the first respondent and Mr.V.Chandrasekaran, learned counsel for the second respondent.

2. The order in CRP No.3519 of 2023 is sought to be reviewed by the respondents in the revision who are the plaintiffs before the Commercial Suit.

3. Learned Senior Counsel would invite my attention to the findings of the Court with regard to the compliance of Section 12A of the Commercial Courts Act 2015 regarding Pre-Institution Mediation. This Court, while disposing of CRP No.3519 of 2023 has found that Section 12A Pre-Institution Mediation is mandatory under Commercial Courts Act 2015 and the requirement of Pre-Institution Mediation has not been complied with in the present case and on that score, the revision came to be allowed.



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4. In fact, learned Senior Counsel would invite my attention to the fact that this Court was appraised of the latest decision of the Hon'ble Supreme Court in ***Patil Automation Priviate Limited and Ors vs Rakheja Engineers Private Limited*** reported in ***MANU/SC/1004/2022***, where the Hon'ble Supreme Court has held that Section 12-A of the Act is mandatory and failure to explore pre-institution mediation in terms of Section 12-A of the Act deserves rejection of the plaint.

5. However, learned Senior Counsel would state that the plaint was originally filed on 01.06.2022 and thereafter, it was returned for certain compliances and the last representation was made on 19.07.2022, which is well before the cut-off date that has been fixed by the Hon'ble Supreme Court requiring mandatory pre-institution mediation after 20.08.2022. In other words, the Hon'ble Supreme Court has held that the suits that are filed prior to 20.08.2022 are not required to undergo the mandatory pre-institution mediation and it is only in respect of the suits that are filed on or before 20.08.2022, then, Section 12-A will have to be construed strictly and



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the pre-institution mediation cannot be dispensed with and failure to comply with mandate of Section 12-A would entitle rejection of the plaint itself.

6. In the light of the above, the only ground on which the revision came to be allowed was that the pre-institution mediation in the present case had not taken place. However, in the light of the fact the Hon'ble Supreme Court has fixed the cut-off date i.e., 20.08.2022, as discussed above, the revision petitioner cannot be non-suited on the ground that there has been no compliance of Section 12-A of the Act.

7. On this ground, I am inclined to allow the Review Application. However, the revision petitioner/second defendant states that he challenged the order of the Commercial Court also on the ground that the finding of the Commercial Court that the dispute was not a commercial dispute was erroneous. However, this Court has confirmed the findings of the trial Court at Paragraph No.10 .

8. Learned counsel for the revision petitioner/first respondent in this review application would state that since revision was allowed on the



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ground of non compliance of Section 12-A, there was no occasion for the revision petitioner to challenge the findings rendered by this Court in Paragraph No.10 stating that the disputes between the employees of the eighth respondent bank and the first respondent bank would be a commercial dispute.

9. I find force in the submissions of the learned counsel for the revision petitioner/1st respondent in this review, because, having succeeded in the revision, though on a different point, it was not open to the revision petitioner to challenge the order of this Court. However, at the same time, it is not open to the revision petitioner to canvas this point in the present review application which has been filed pointing out an error apparent on the face of the record which pertains to Section 12-A of the Commercial Courts Act 2015 alone.

10. The learned counsel for the revision petitioner states that this Court has recorded that on a perusal of the plaint documents, the Court has noticed that the plaintiffs alleged that the first defendant bank had re-scheduled the term loan accounts without intimation. It is the categorical



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submission of the learned counsel for the revision petitioner that there are no
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plaint documents filed in this regard. As already discussed above, this cannot
be agitated in this Review Application filed by the plaintiffs. If at all, the
revision petitioner is aggrieved by the findings and on account of civil
revision petition being allowed in his favour and thereafter, now in the
present review application, the order in the revision is over turned, it is open
to the revision petitioner to file an independent review, if he is advised.

11. With the above observation, the Review Application is allowed.
No costs. Registry is directed to return the original papers to the District
Commercial Courts.

26.08.2025

Index: Yes/No
Website:yes/no
Speaking Order/Non-speaking Order
sr

To

The Commercial Court (District Judge Cadre)
Coimbatore



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P.B.BALAJI.,J

sr

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