



C.R.P.PD.No.891 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.03.2025**

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.R.P.PD.No.891 of 2025

Indian Oil Corporation Limited
Represented by its Chief Terminal Manager,
Tondiarpet Terminal,
Chennai-600 081.
State Head Office at
139, Nungambakkam High Road,
Chennai-600 034.

... Petitioner

Vs

1.G.Vijayalakshmi
2.P.Komesh Kumar

... Respondents

PRAYER: Petition filed under Article 227 of the Constitution of India, praying to direct the VII Additional Judge, City Civil Court at Chennai (O.S.No.8152 of 2022) to permit the petitioner to deposit the sum of Rs.25,10,059/- in the account of the aforesaid suit under order XXXV Rule 2 thereby consequently proceed as per Order XXXV Rule 4 of CPC to dispose of the suit expeditiously.

For Petitioner : Mr.Mohammed Fayaz Ali



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ORDER

The plaintiff in an interpleader suit has filed the above Civil Revision Petition seeking the following relief:

“To permit the petitioner to deposit the sum of Rs.25,10,059/- in the account of the aforesaid suit under order XXXV Rule 2 and consequently proceed as per Order XXXV Rule 4 of CPC to dispose of the suit expeditiously”.

2. The brief facts which are required to dispose of this revision are set out herein below and the parties are referred to in the same ranking as before the Trial Court.

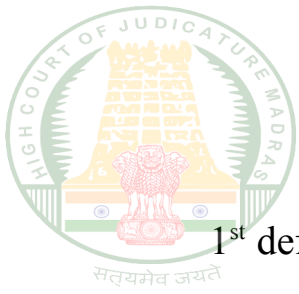
(i) The plaintiff which is a Public Sector Undertaking awarded the tender for transportation of bulk petroleum products to M/s.Naveen Kumar Fuels. Originally, the said Firm was a proprietorship concern



and the 1st defendant was its proprietrix. She had been awarded the

Retail Outlet Dealership of the plaintiff and thereafter, the proprietorship concern was re-constituted into a partnership firm consisting of defendants 1 and 2.

(ii) The plaintiff would contend that based on a letter dated 19.12.2011 issued in the name of M/s. Naveen Kumar Fuels by its Partner, the 1st defendant, payments were being made by transfer to the current account of the firm with the Indian Overseas Bank, Vellore Branch. Later, the 2nd defendant had sent a letter dated 14.02.2012 informing the plaintiff that the lorry hire charges were not being deposited to the Firm's bank account and requested the plaintiff to make the payment from the month of September 2011 to the SBI account of the Firm. This was followed by the reminder dated 02.03.2012 by the 2nd defendant. Thereafter, a legal notice dated 13.03.2012 was issued by the 2nd defendant as a partner of M/s. Naveen Kumar Fuels calling upon the plaintiff to pay the hire charges in the name of the partnership firm. In the said notice, it was stated that the



1st defendant was collecting money without the knowledge of the other partners which was contrary to the spirit of the partnership.

(iii) After the issuance of the legal notice, the plaintiff had withheld the payment of a sum of Rs.25,10,059/- payable for the period from March 2012 to April 2013. The plaintiff had issued a letter dated 18.02.2022 calling upon the defendants to submit all the records including the bank account details of the firm. However, the defendants did not come forward to furnish the said details. The plaintiff was therefore retaining the said money and hence, they have come forward with the suit in question.

3. The learned VII Additional Judge, City Civil Court, Chennai without following the procedure contemplated under XXXV Rule 4 of the Code of Civil Procedure, 1908 and without taking note of the written statement filed by the 1st defendant wherein she had given her consent to allow the petitioner to deposit the said sum, had proceeded to treat the suit as regular suit, which is now posted for trial. The 2nd defendant has remained *ex-parte*. Thus, aggrieved, the plaintiff is



before this Court for the relief set out supra.

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4. Order XXXV Rules 2 and 4 of the Civil Procedure Code, 1908 is extracted hereunder:

2. *Payment of thing claimed into Court*

Where the thing claimed is capable of being paid into Court or placed in the custody of the Court, the plaintiff may be required to so pay or place it before the he can be entitled to any Order in the suit.

4. *Procedure at first hearing*

(1) At the first hearing the Court may-

(a) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit; or

(b) if it thinks that justice or convenience so require, retain all parties until the final disposal of the suit.

(2) Where the Court finds that the admissions of the parties or other evidence enable it to do so, it may adjudicate the title to the thing claimed.

(3) Where the admissions of the parties do not enable the Court so to adjudicate, it may direct-

(a) that an issue or issues between the parties



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be framed and tried, and

(b) that any claimant be made a plaintiff in lieu of or in addition to the original plaintiff, and shall proceed to try the suit in the ordinary manner.

5. A reading of the Order XXXV Rule 2 of C.P.C would indicate that where the relief claimed is capable of being paid into Court or placed in the custody of the Court, the Court may require the plaintiff to do so.

6. In the instance case, the subject matter of the suit is the payment of the sum of Rs.25,10,059/- which is an amount payable by the plaintiff to the defendants for the services rendered. The plaintiff has expressed its readiness and willingness to deposit the said amount into Court and one of the partners, the 1st defendant has also given her consent for the same. The 2nd defendant has remained ex-parte. Therefore, the Court ought to have followed the procedure contemplated under Rule 4(1)(a) by directing the plaintiff to deposit the



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said amount into Court and discharging their liability to the defendants.

Thereafter, it is open to the Court to adjudicate the title of defendants 1 and 2 to the amounts so deposited. It is only when the Court is unable to adjudicate that it is required to treat the suit as an ordinary suit. In the instant case, the relief is capable of being paid and the plaintiff is willing to do so for which the 1st defendant has no objection. Therefore, there is no question of the Court being called upon to adjudicate on the initial issue of deposit. It is only when it comes to distributing the said amount payable to the defendants 1 and 2 that an adjudication is called for.

7. Therefore, taking into consideration the above circumstances, this civil revision petition is allowed as prayed for. The learned VII Judge, City Civil Court, Chennai shall permit the petitioner to deposit the said amount of Rs.25,10,059/- to the credit of the suit O.S.No.8152 of 2022 and thereafter, proceed under Order XXXV Rule 4 of C.P.C to adjudicate the claim of the defendants 1 and 2. No costs.



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Index: yes/no

Speaking Order: Yes/No
srn

To

The VII Additional Judge,
City Civil Court,
Chennai.



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P.T. ASHA, J.,

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