



CRP.Nos.1259 and 1260 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.03.2025

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

**CRP.Nos.1259 and 1260 of 2025 &
CMP.Nos.7569 & 7568 of 2025**

1. M/s. Vista Computers,
represented by its Proprietor
Mr.N.Kumar,
No.25/26, 3rd Floor,
Medavakkam Tank Road,
Kilpauk, Chennai 600 010
Presently at No.2/17, 2nd Floor,
3rd Cross Street, Ormes Road,
(near Kilpauk ICICI Bank),
Kilpauk, Chennai 600 010

2. N. Kumar,
Proprietor of M/s. Vista Company,
No.25/26, 3rd Floor,
Medavakkam Tank Road,
Kilpauk, Chennai 600 010.
presently at 3rd Cross Street, Orms Road,
(near Kilpauk ICICI Bank),
Kilpauk, Chennai 600 010.
Presently at No.2/17, 2nd Floor,
3rd Cross Street, Ormes Road,
(Near Kilpauk ICICI Ban),
Kilpauk, Chennai 600 010.

.. Petitioners
in both CRPs

VS

E. Mani,
carrying on business under the



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name and style of
M/s. Makewell Computer System,
No.44/60, Swamy Pandaram Street,
Chintadripet, Chennai 600 002.

.. Respondent
in both CRPs

Prayer in both CRPs: Civil Revision Petition filed under section 227 of Constitution of India against the order passed in IA.Nos. 6 and 5 of 2025 in O.S.No.364 of 2021 dated 03.03.2025 on the file of the XIX Additional City Civi Court at Chennai.

For Petitioners in both CRPs : Mr. V. Jayaprakash

For Respondent in both CRPs : Mr.M.Desingu

COMMON ORDER

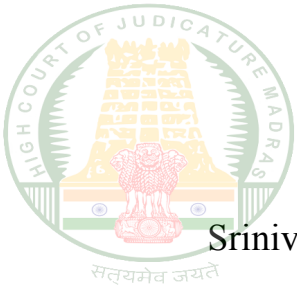
The above Civil Revision Petitions are filed challenging the order seeking to recall and reopen the evidence of the defendants. CRP.No.1259 of 2025 is filed challenging the order passed in I.A.No.6 of 2025 and CRP.No.1260 of 2025 is filed challenging the order passed in I.A.No.5 of 2025 both in the suit O.S.No.364 of 2021. I.A.No.5 of 2025 is filed to reopen the defendant side evidence and I.A.N.6 of 2025 is filed to recall the defendant side evidence. Since the facts are common, a common order is being pronounced.



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2. The Revision Petitioners before this court are the defendants in the aforementioned suit. The respondent/plaintiff had filed the suit O.S.No.364 of 2021 for recovering a sum of Rs.54,13,918/- together with interest of Rs.46,07,588/- at 6% per annum from the date of plaint till the date of realisation. The aforesaid amounts were due towards the purchase of goods from the plaintiff. The respondent would submit that despite several requests, the amounts have not been paid. Therefore, the respondent has filed the aforementioned suit.

3. A written statement has been filed by the defendants/petitioners *inter-alia* denying the contents of the plaint. It is their case that the 1st petitioner/1st defendant is the Proprietor of the 2nd petitioner/2nd defendant firm dealing in selling computers, laptops and accessories etc. They used to purchase the computer peripherals and spares from dealers and one such person from whom they purchased the materials was one Srinivasan, who is an employee under the respondent. The petitioners would submit that they did not know the respondent/plaintiff and had no direct dealing with the respondent. They would further contend that they were in the habit of transferring the invoice amounts to the accounts informed by Srinivasan. It appears that



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Srinivasan was an employee of the respondent/plaintiff and he had misappropriated the amounts paid by the petitioners. On 19.07.2018, Srinivasan has executed an undertaking in favour of the petitioner that he would be responsible for the payments received by him on behalf of the respondent. Criminal complaints were lodged in this regard. The petitioner would submit that since they have made the payment to Srinivasan, as instructed and as they had no dealing with the petitioner, they are not liable to repay the said amount.

4. It appears that after the evidence was completed and the matter was posted for judgment, the petitioners have come forward with these two applications. In the affidavit filed in support of the said petitions, the petitioners would contend that their defense is that Srinivasan had misappropriated the amounts, all of which had been paid through the Bank. That apart, he has executed the undertaking dated 19.07.2018. The petitioners would further contend that they had lodged a complaint against the Srinivasan in Cr.No323 of 2018 complaining about the misappropriation. The respondent/plaintiff during cross examination had claimed that he had not know who Srinivasan is. However, the respondent had filed an intervenor petition in the petition filed by the said Srinivasan



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for anticipatory bail. These documents were sought to be marked. The petitioners sought to mark the FIR in Cr.No.323 of 2018, anticipatory bail petition in CrI.M.P.No.16841 of 2018 on the file of the Sessions Judge at Chennai and intervention petition in CrI.M.P.No.1709 of 2018. Therefore for this purpose, they sought to recall and reopen the evidence of the defendants.

5. The respondent/plaintiff had filed a counter *inter-ala* contending that the respondent had cross examined PW1 on various dates at length and the cross examination which commenced on 07.08.2023 was finally concluded on 06.01.2025. The respondent would deny that Srinivasan was their employee. The said PW1 was also examined in cross. Infact, it is the contention of the respondent that PW1 was examined at length on 21.09.2023 and 06.10.2023 and when the matter was originally posted for judgment, the petitioners have come forward with applications in I.A.Nos.3 and 4 of 2024 to recall and reopen the evidence of PW1. Those applications were dismissed and now the present applications have been filed once again to recall and reopen the evidence, now of the defendants.



6. The learned XIX Addl. City Civil Judge, Chennai, after

hearing the arguments and perusing the records, rejected the applications.

Challenging the same, the petitioners are before this Court. The instant applications have been filed only to prove that the respondent/plaintiff is aware about who Srinivasan was. In the affidavit filed in support of the petition, it is the further case of the petitioner that during the cross examination of PW1, PW1 had stated that he did not know who Srinivasan is, but however, he has taken out an intervention application in the petition filed by the said Srinivasan for anticipatory bail in CrI.M.P.No.16841 of 2018 on the file of the Sessions Court at Chennai. The learned counsel would also point out to the fact that in his cross examination, PW1 has admitted the knowledge of the said Srinivasan. He would submit that the respondent has admitted that he was acquainted with Srinivasan. The said fact is refuted by the counsel for caveator.

7. Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondent.

8. Admittedly the suit is now posted tomorrow for judgment and the applications in question have been taken out only when the matter was



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posted for judgment and when the arguments are concluded in the above matter. The documents are sought to be introduced only to disprove the contention of the plaintiff/respondent that he did not know Srinivasan.

9. The learned counsel for the petitioners himself has submitted that during his cross examination, PW1 has admitted the knowledge of Srinivasan, When that being the case, there is no necessity to file these documents, more particularly, when the documents were very much available with the petitioner at the time of adducing evidence. The documents are sought to be filed at this 'n'th hour when the matter is listed for judgment. Therefore, the order passed by the learned trial Judge appears to be in order and I see no reason to interfere with the said order. Therefore, the Civil Revision petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

10.It is informed by both the learned counsel that the matter is listed tomorrow for arguments. Learned counsel for the Revision Petitioners would submit that the defendants/revision petitioners have not filed their written arguments. Therefore, the learned XIX Addl. Judge, City Civil Court, Chennai is directed to receive the written arguments and pass



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judgment thereafter. The petitioners are only permitted to file their written arguments.

25.03.2025

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Index:yes/no

Internet:yes/no

speaking order/non-speaking order.

Note Issue copy today (25.03.2025)

To

The XIX Additional City Civil Court at Chennai.



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P.T.ASHA, J.

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