



WEB COPY

CRP No. 1429 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-06-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**CRP No. 1429 of 2024
AND CMP NO. 7674 OF 2024**

Senthil

Petitioner(s)

Vs

1. Boopathy
- 2.Ashok
- 3.Kalaiselvi
- 4.Radha
- 5.Malliga

Respondent(s)

The revision has been filed under Article 226 of Constitution of India to set aside the fair and decretal orders dated 10.01.2024 passed in IA No.3 of 2023 in OS No.115 of 2022 on the file of the Principal District Judge, Villupuram.

For Petitioner(s): Mrs.R. Meenal

For Respondent(s): M/s.A.P.Neelamegavannan
For R1 To R5

ORDER

Heard Mrs.R.Meenal, learned counsel for the petitioner and Mr.A.P.Neelamegavannan, learned counsel for the respondents.



2. The defendant in a suit for recovery of money has filed the present revision aggrieved by the dismissal of an application taken out by the defendant to file an additional written statement. The purpose of the additional written statement was to bring to the notice of the court that the transaction is a commercial one and hence, the suit ought to have been filed before the commercial Court.

3. Mrs.Meenal, learned counsel for the petitioner took me through the plaint averments to fortify her contention that the dispute between the parties is nothing but a commercial dispute, which clearly falls within the definition of Section 2(c) of the Commercial Courts Act, 2015. The learned counsel would further state that the petitioner/defendant only wanted permission to file additional written statement to raise legal issues. Unfortunately, the trial Court has proceeded to give a finding that the dispute is not a commercial dispute and dismissed the petition.

4. The learned counsel would also rely on the decision of this Court in the case of *Muthusamy Vs. Thangaraj reported in 2005 (5) CTC 785* wherein this Court has held that the Courts have to liberally permit the parties to file additional pleadings, as long as the rights of the other party has not been affected and held that even after commencement of the trial, additional written statement filed by the petitioner can be entertained.

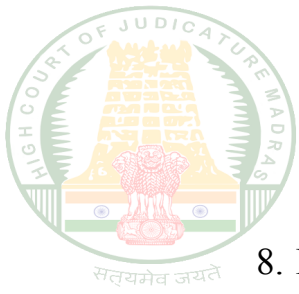


5. Per contra, Mr.A.P.Neelamegavannan, learned counsel for the respondents would submit that along with the plaint, the respondents have taken out an application for attachment before judgment and in the said application, orders were passed in favour of the respondents/plaintiffs. The learned counsel would invite the attention of this Court to Section 12(A) of the Commercial Courts Act, 2025 where the Court has power to dispense with the mediation process in the event of the plaintiffs seeking any urgent relief. The learned counsel further states that the trial Court has considered all the factors and come to the conclusion that the dispute is not a commercial dispute. He would therefore prays for dismissal of the revision.

6. I have carefully considered the submissions advanced by the learned counsel on either side.

7. The plaintiffs have come forward with the suit with the specific averments, are extracted hereunder:

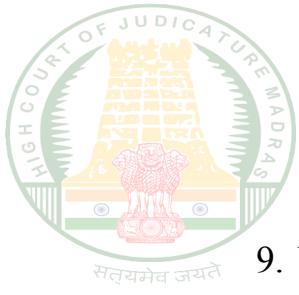
"III. The defendant is doing the human hair business under the style of "Dreem Hair" and exporting the human hair to abroad. The plaintiffs father Govindasamy also doing the human hair business. The defendant purchased the human hair from the plaintiffs father Govindasamy on 15.02.2021 and issued two cheques for Rs.3,80,000/- dated 15.02.2021 and also another cheque for Rs.12,00,000/- dated 26.02.2021."



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8. From a careful reading of the above paragraph in the plaint, it is clear that the suit claim arises out of a commercial dispute. Section 2(c)(xviii) of the Commercial Courts Act includes the agreement for the sale of goods or provision of services as a commercial dispute. This means disputes arising from contracts for the sale of goods or the provision of services fall under the purview of the Commercial Courts Act. Therefore, the present claim that has been raised by the plaintiffs clearly falls within the definition of "Commercial dispute" and the suit ought to have been filed before the commercial Court. However, at the same time, considering the fact that the said pleading was never raised by the petitioner in the original written statement and on the contrary, the petitioner had participated in the trial and the plaintiffs' witnesses have been examined in chief and the cross-examination was also completed, at this juncture, it may not be open to the petitioner to take advantage of his own wrong and contended that the suit has to be dismissed for want of compliance of Section 12(A) of the Commercial Courts Act viz., pre-suit mediation. However, this Court, having found that the dispute is a commercial dispute, proceeds to pass the following order:-

"The suit pending before the Principal Sessions Judge, Villupuram in OS. No.115/2022 shall be transferred to the Commercial Court and it shall be tried from the stage where it has been left at the Principal Sessions Court. The interim orders already passed in favour of the respondents/plaintiffs shall be continued."



9. With the above directions, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

26-06-2025

rli

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The Principal District Judge, Villupuram.



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