



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

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CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

**CRP No. 1890 of 2025
and CMP No.10891 of 2025**

1. V.Vijayalakshmi

W/o.Late M.R.Venkatachalam, NO.30, Raja Annamalaipuram,
6th Main Road, Mylapore, Chennai-4

2.Bhuvaneshwari Ganesan

D/o.Late M.R.Venkatachalam,
NO.30, Raja Annamalaipuram, 6th Main Road, Mylapore,
Chennai-4

3.Lakshmi Ramasamy

D/o.Late M.R.Venkatachalam,
NO.30, Raja Annamalaipuram, 6th Main Road, Mylapore,
Chennai-4

4.Suja Ganesh

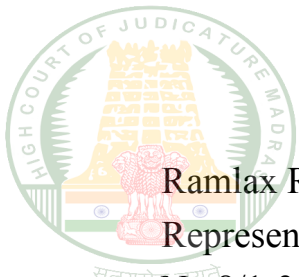
D/o.Late M.R.Venkatachalam,
NO.30, Raja Annamalaipuram, 6th Main Road, Mylapore,
Chennai-4

5.Krishnaveni Karthik

D/o.Late M.R.Venkatachalam,
NO.30, Raja Annamalaipuram, 6th Main Road, Mylapore,
Chennai-4

Petitioner(s)

Vs



Ramlax Roadlines

Represented by its Partner M.L. Viswanathan,
No.8/1-32A, Pudusampalli Raman Nagar Post,
Mettur Dam-636403

Respondent(s)

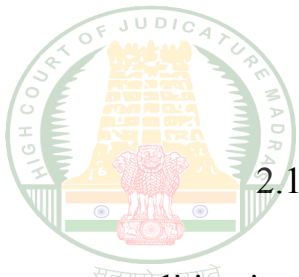
Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 01.04.2025 passed in I.A.No.2 of 2024 in O.S.No.922 of 2024 on the file of the Additional District Court (Fast Track Court), Salem at Mettur.

For Petitioner(s): Mr.Shangar Murali

ORDER

Challenging the dismissal of the application I.A.No.2 of 2024 seeking to reject the plaint in O.S.No.922 of 2024 pending on the file of the Additional District Court (Fast Track Court), Salem at Mettur, the petitioners/defendants are before this Court.

2. To appreciate the grievance of the petitioners, it would be necessary to briefly set out the facts leading to the filing of this revision petition.

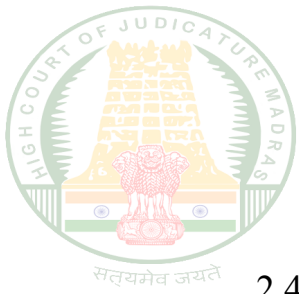


2.1 The parties are, for ease of understanding, referred to in the same litigative status as before the trial Court.

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2.2 The plaintiff filed the aforesaid suit for declaring the plaintiff to be absolute owner of the suit property and for consequential permanent injunction restraining the defendants, their men, servants, agents or anybody claiming under them and all person from interfering into the plaintiff's peaceful possession and enjoyment of the suit property in any manner whatsoever.

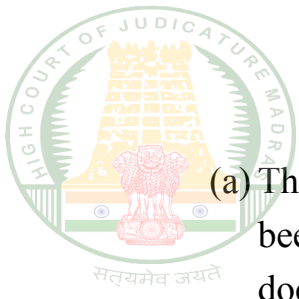
2.3 The case of the plaintiff is that the plaintiff is a registered partnership firm, which was started in January 1978 and the firm consists of five partners and they were engaged in the business of lorry transport. Originally, the business was being run from the suit property and the property was taken on lease from the earlier owner M.K.Sabtharishi. The partners were brothers and therefore, the property was purchased in the name of the elder partner/brother M.R.Venkatachalam on 10.11.1978. The sale consideration came from out of the plaintiff firm.



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2.4 It is the contention of the plaintiff that at the time of purchase, M.R.Venkatachalam did not have independent source and he had purchased the property under the sale deed dated 10.11.1978 for the plaintiff firm. The plaintiff would further contend that from the date of purchase, the business was being conducted in the suit property and the property was being used as a parking shed for its lorries for the last 46 years. The property was originally a vacant site and later, a two storey office, shed for parking lorries and godown to dump lorry scraps were put up in the property.

2.5 The said M.R.Venkatachalam died on 02.03.2024 and on his demise, his legal representatives viz. defendants 1 to 5 are trying to dispossess the plaintiff from the suit property and trying to alienate the same. Therefore, the plaintiff came forward with the suit in question. On entering appearance, the defendants 1 to 5 had taken out an application to reject the plaint under Order VII Rule 11 and Order X of CPC. They would seek to reject the plaint on the following reasons:

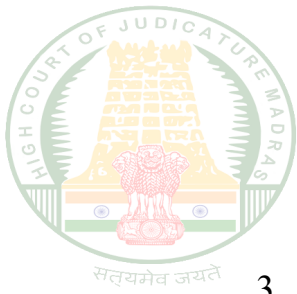


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- (a) The details of the sale receipt and the quantum of sale price, which has been paid by the plaintiff firm to M.R.Venkatachalam not pleaded and document not produced.
- (b) The numbering of the suit for declaration without production of these documents is wrong.
- (c) This plaintiff ought to have filed the suit on the basis of the sale receipt.
- (d) The property stands in the name of M.R.Venkatachalam and was not purchased from and out of the firm.
- (e) The lorries were being parked in the property only with the consent of the defendants' father M.R.Venkatachalam.
- (f) Partnership is at will and their mother, whom they have nominated would be the partner of the firm, has got every right to dissolve the partnership firm.
- (g) The suit is filed on the illusory cause of action.

2.6 The plaintiff had filed a detailed counter stating that the suit was very much maintainable and could not be rejected at the threshold.

2.7 The Additional District Judge (Fast Track Court), Salem at Mettur, by order dated 01.04.2025 was pleased to dismiss the said application I.A.No.2 of 2024, aggrieved by which, the defendants are before this Court.



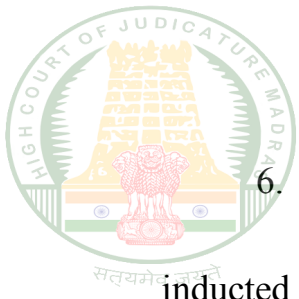
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3. Heard the learned counsel for the petitioners/defendants and perused the materials available on record.

4. The two main grounds, on which, ultimately the petition was argued were that,

- i. the suit has been filed by one M.L.Viswanathan without the authority of the other partners; and
- ii. the sale receipt alleged to have been executed by M.R.Venkatachalam dated 10.11.1978 had not been produced.

5. As regards the first argument that the institution of the suit was not in consonance with the provisions of Order XXX CPC, it is seen that the suit has been instituted by one partner, who has obtained a power of attorney from the other partners on 22.08.2024, in and by which, M.L.Viswanathan was authorised to institute the suit on behalf of the firm and the Court has also passed an order on the same on 10.10.2024. Therefore, the contention that the suit is not maintainable, as the same has not been instituted by an authorised authority, has to necessarily fail.



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6. The legal heir of M.R.Venkatachalam viz. his wife is yet to be inducted as a party, though the defendants would claim that she has been nominated as the partner.

7. With reference to the non-production of the sale receipt dated 10.11.1978, the plaintiff has stated that the same would be produced at the time of trial. Even assuming that the same is not produced, it would only go against the plaintiff. It can be taken advantage by the defendants at the time of arguments.

8. The allegation that the cause of action is illusory cannot be countenanced, as the plaintiff has set out the cause of action in his pleadings.

9. Therefore, taking into account the above facts, the order passed by the learned Additional District Judge (Fast Track Court), Mettur, in rejecting I.A.No.2 of 2024 has to necessarily be upheld.



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Accordingly, this civil revision petition stands dismissed. No costs.

Connected C.M.P. is closed.

29-04-2025

nsd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To
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1.Ramlax Roadlines
represented by its Partner M.L.Viswanathan,
No.8/1-32A, Pudusampalli Raman Nagar Post,
Mettur Dam-636403

2.The Additional District Judge
(Fast Track Court), Mettur.



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P.T.ASHA J.

nsd

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