



C.R.P.No.3891 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 30.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.3891 of 2024

K.S.Elavarashen (dead)

1.E.Pushpa

2.K.P.E.Ravindran

S.Rathinam (dead)

S.Mani (dead)

... Petitioners

Vs.

1.M/s.Veena Textiles Ltd.,
Represented by its Managing Director,
309, Salem Main Road,
Komarapalayam 638 183.

2.M/s.ICICI Venture Fund Managing Company Ltd.,
As Investment Manager to ICICI Value Fund and
ICICI Equity Fund,
Prestige Obelisk, 10th Floor,
No.3, Kasturba Road,
Bangalore – 560 001.
Karnataka State.

3.M/s.ICICI Trusteeship Service Private Ltd.,
C/o. ICICI Ventures Fund Managing Company Limited,
Prestige Obelisk, 10th Floor,
No.3, Kasturba Road,
Bangalore – 560 001.
Karnataka State.



C.R.P.No.3891 of 2024

4.M/s.Amrex Marketing (P) Ltd.,
26, Belvedere Road,
Kolkatta – 700 027.

5.M/s.SKDC Consultant Limited,
No.7, Layout Street,
No.1, West Power House Road,
Tatabad West,
Coimbatore – 641 012.

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decree dated 20.03.2024 in O.S.No.209 of 2020 on the file of the District Munsif at Komarapalayam.

For Petitioners	:	Mr.S.Radhakrishnan
For R4	:	Mr.Abhinav Parthasarathy
For R1	:	No appearance
R2 and R3	:	Court Notice Returned (Left)

ORDER

Challenging the judgment and decree passed by the learned District Munsif, Komarapalayam, dated 20.03.2024, in O.S.No.209 of 2020, dismissing the suit, the present revision has been filed by the plaintiffs.



C.R.P.No.3891 of 2024

WEB COPY

2.The suit in O.S.No.209 of 2020 has been filed by the petitioners for declaration of the sale of shares in favour of the 4th respondent contrary to the oral agreement, as null and void; for specific performance to enforce the oral agreement to sell the shares in favour of the plaintiffs; and also for injunction.

3.It is *inter alia* pleaded by the plaintiffs that earlier, there was an oral agreement between the parties, wherein, the defendants agreed to sell their shares in favour of the plaintiffs, however, contrary to the oral agreement, the shares have been dealt with in favour of the 4th defendant. Therefore, the suit has been filed. The suit has been resisted by the defendants by filing written statement.

4.Based on the pleadings, 11 issues have been framed by the trial Court, amongst which, the first issue was on the jurisdiction of the Civil Courts to decide the issues on shares. On the side of the plaintiffs, P.W.1 and P.W.2 were examined and Exs.A1 to A4 were marked. On the side of the defendants, D.W.1 and D.W.2 were examined and no document marked.



C.R.P.No.3891 of 2024

WEB COPY

5.The trial Court has dismissed the suit on the ground that the Civil Court has no jurisdiction to go into the issues on shares. Therefore, the trial Court did not go into the other issues. Challenging the same, the present revision has been filed.

6.At the outset, this Court is of the view that, even when the suit has been dismissed on a preliminary issue of jurisdiction, it cannot be said that an appeal is not maintainable as against the decree and judgment. When a judgment and decree is passed dismissing the suit, the proper course would be to file an appeal under Section 96 of Code of Civil Procedure. If the plaintiffs are able to show that the very dismissal of the suit on the preliminary issue is not fair and proper on merits, they can very well seek for remand of the matter under Order XLI Rule 23 CPC for deciding the suit on merits. Therefore, this Court is of the view that a revision under Article 227 of the Constitution of India challenging the decree and judgment in a suit on the ground that the suit has been dismissed on jurisdiction but not on merits, is not maintainable. It is always open to the plaintiffs to file an appeal as per law, as against the impugned decree and judgment.



C.R.P.No.3891 of 2024

WEB COPY

7. Accordingly, this Civil Revision Petition is dismissed. No costs.

30.07.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1. The District Munsif,
Kumarapalayam.

2. The Section Officer,
VR Section,
High Court, Madras.



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C.R.P.No.3891 of 2024

N. SATHISH KUMAR, J.

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C.R.P.No.3891 of 2024

30.07.2025