



CRP.(PD)No.4128 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM:

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN
CRP.No.4128 of 2025
and CMP.No.21277 of 2025

B.Dilip Kumar

... Petitioner

vs.

B.Magesh Kumar

.... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order of the learned Principal District Munsif at Poonamallee II in I.A.No.3 of 2024 in O.S.No.47 of 2022 dated 12.02.2025.

For Petitioner : Mr.S.Madhusudanan
For Respondent : Mr.Mahesh Kumar
for M/s.Rohini Ravikumar

ORDER

Unsuccessful defendant has preferred this Civil Revision Petition. One B.Magesh Kumar filed a Suit in O.S.No.47 of 2022 on the file of the Principal District Munsif Court, Poonamallee, originally seeking for the relief of mandatory injunction prohibiting the defendant, his agents or men claiming through him from



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carrying on any business with respect to theatre collection or distribution including audio, digital satellite rights of the film 'Mugamariyan' jointly produced by the plaintiff and the defendant under the Memorandum of Agreements dated 04.04.2019 and 01.05.2019 and to comply with the terms and conditions of the Memorandum of Agreements.

2. The defendant has filed the written statement and at that stage, the plaintiff filed an application in I.A.No.3 of 2024 under Order VI Rule XVII CPC to amend the plaint and consequently renumber the prayer in sub paras set out in schedule thereunder. Upon hearing the arguments advanced on either side, Court below, vide order dated 12.02.202, has allowed the petition on the ground that the plaintiff sought for the proposed amendment of prayer including the prayer for recovery of money from the defendant. The contention of the defendant is that the claim made for proposed amendment is barred by limitation and the prescription of limitation involves mixed question of law and facts and it cannot be contested at this stage. The proposed amendment will not change the nature of the suit and allowed the petition. Aggrieved over the same, the defendant has preferred this Civil Revision Petition.



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3. The learned counsel appearing for the revision petitioner would submit that the Court below ought to have seen that the main suit itself is not maintainable in law and fact and against the principles of natural justice. The Court below failed to consider that the plaintiff had not issued any notice before initiating rent control proceedings against the defendant. The Court below ought to have seen that the defendant accepted the demand draft and sent a legal notice and the same was not brought by him to the knowledge of the proceedings unintentionally. The plaintiff has not at all filed any document in support of his claim in the petition filed for amendment and the claim of the plaintiff is also barred by limitation. The learned counsel for the petitioner, in support of his contention, relied on the judgment of the Bombay High Court dated 12.12.2022 made in W.P.No.6971 of 2022.

4. *Per contra*, learned counsel appearing for the respondent / plaintiff would submit that the plaintiff entered into Memorandum of Business Agreements dated 04.04.2019 and 01.05.2019 with the defendant and as per the terms and



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conditions, he has jointly produced the Tamil film ‘Mugamariyan’ and invested a sum of Rs.60,00,000/- i.e., each investing Rs.30,00,000/-. They had also entered into a Memorandum of Agreements dated 04.04.2019 and 01.05.2019 for the joint investment of Rs.1.00 Crores in addition to the above said agreement. The defendant failed to maintain the true status of the film and since the defendant caused severe financial loss and mental agony, the plaintiff issued legal notices dated 27.02.2020 and 09.12.2021 to the defendant and therefore, it is just and necessary to include the prayer for recovery of money from the defendant. The learned counsel for the respondent, in support of his contention, has relied upon the following judgments:

(i) Vineet Kumar v. Mangal Sain Wadhera [(1984) 3 SCC 352]

(ii) Person Publicity rep. By its Partner K.A.Ajmal Bhukari v. The Corporation of Madras rep. By its Commissioner [2003 (1) CTC 219]

5. Heard the learned counsel for the parties and perused the materials available on record.



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6. It is seen from the records that originally the Suit is filed seeking the relief of mandatory injunction prohibiting the defendant, his agents or men claiming through him from carrying on any business with respect to theatre collection or distribution including audio, digital satellite rights of the film 'Mugamariyan' jointly produced by the plaintiff and the defendant under the Memorandum of Agreements dated 04.04.2019 and 01.05.2019 and to comply with the terms and conditions of the Memorandum of Agreements. A perusal of the affidavit filed in support of I.A.No.3 of 2024 would disclose that after repeated requests made by the plaintiff, the defendant had issued two cheques for Rs.45,00,000/- and Rs.35,00,000/- respectively and when the petitioner presented those cheques for encashment before the HDFC Bank on 04.02.2020, it was returned with an endorsement “account closed”. It has also been stated that the defendant has failed to mention the status of the film 'Mugamariyan', therefore, the plaintiff came up with the petition for amendment of prayer including recovery of money from the defendant.

7. Opposing the same, the defendant has filed the counter affidavit wherein it has been stated that the defendant produced the film 'Mugamariyan' with the



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budget of Rs.250 lakhs and when the defendant was in financial need, plaintiff was introduced by the accountant one Dinesh by arranging loan of Rs.3 Crores. The plaintiff and the said Dinesh committed various malpractices, maintained improper accounts and took several blank cheques and signed documents kept in the office of the defendant and also presented the cheques for encashment with the bank. The relief claimed by the defendant by way of the proposed amendment is barred by limitation and the petition is not maintainable. Before the Court below, no document was marked and no witnesses were examined. The proposed amendment sought for is with regard to including the prayer for recovery of money from the defendant. The main contention of the writ petitioner is that the proposed amendment is affected by limitation.

8. It is seen from the records that the trial of the case is yet to commence. It is seen from the plaint that the plaintiff had pleaded the issues with regard to the transactions held between them and no new pleadings were introduced and the proposed amendment sought is only to include the prayer for recovery of money. It is well settled that limitation is the mixed question of facts and law and it cannot be decided without conducting trial. The proposed amendment will not change



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the nature of the suit. The issue of limitation can very well be raised by the revision petitioner /defendant by way of filing additional written statement and also by letting evidence to that effect during trial. In view of the reasons assigned above, this Court finds no reason to interfere with the order of the Court below and this civil revision petition is liable to be dismissed.

9. In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

26.09.2025

Intex : Yes/No
Internet : Yes/No
Jvm

M.JOTHIRAMAN, J.

Jvm

To
The Principal District Munsif Court,
Poonamallee.



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