



C.R.P. Nos.4670 batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP. (PD)Nos.4670, 4696, 4697, 4698, 4701, 4702, 4704, 4705, 4707, 4708, 4709, 4710, 4711, 4712, 4715 and 4716 of 2024 & CMP Nos.26127, 26277, 26281, 26287, 26300, 26305, 26310, 26312, 26313, 26314, 26315, 26318, 26322, 26323, 26327 and 26328 of 2024

CRP (PD) No.4670 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083. ... Petitioner

Versus

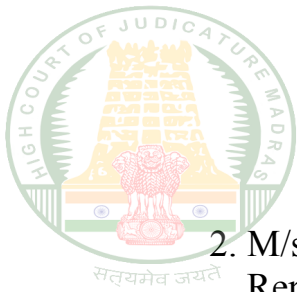
1. Visalakshi
2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road, Police Quarters,
Triplicane, Chennai-600 002. ... Respondents

CRP (PD) No.4696 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083. ... Petitioner

Versus

1. Banumathi S.Shah



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2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4697 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Shantilal J. Shah
Prop.Charu Developers
S/o.Jivraj Shah
211, Cottonpet Main Road,
Bangalore-53.

2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4698 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Bharat Kumar S. Shah
2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,



C.R.P. Nos.4670 batch

Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

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CRP (PD) No.4701 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Bharat Kumar S. Shah
2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4702 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Nirmala K. B. Reddy
2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4704 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,



C.R.P. Nos.4670 batch

No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Ramanathan
2. Visalatchi
3. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4705 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Sapna S.Shah
2. Banumathi S.Shah
3. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road, Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4707 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar, Chennai-600083.

... Petitioner

Versus

1. Ramanathan
2. Visalatchi



C.R.P. Nos.4670 batch

3. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4708 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar, Chennai-600083.

... Petitioner

Versus

1. Visalatchi
2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4709 of 2024

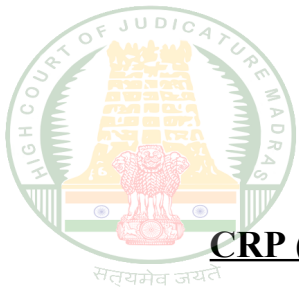
M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Banumathi S. Shah
2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents



C.R.P. Nos.4670 batch

CRP (PD) No.4710 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Bhavdeep Reddy
Rep. by its Power Agent Visalatchi
W/o. Ramanathan,
211, Cottonpet Main Road,
Bangalore-53.

2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4711 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Bhavdeep Reddy
Rep. by its Power Agent Visalatchi
W/o. Ramanathan,
211, Cottonpet Main Road,
Bangalore-53.

2. M/s.NEPC (India) Ltd.



C.R.P. Nos.4670 batch

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Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4712 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Mr.Shantilal J Shah
Prop. Charu Developers
S/o.Jivraj Shah,
211, Cottonpet Main Road,
Bangalore-53.

2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4715 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Nirmala K. B. Reddy,
W/o.K.B.Reddy,
C/o.Indus Home Private Ltd.



C.R.P. Nos.4670 batch

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No.84, 1st Floor, R.V.Road,
Above Silicon Honda,
Basavangudi Bangalore-53.

2. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

CRP (PD) No.4716 of 2024

M/s.Southern Wind Farms Ltd
Rep. by its Senior Vice President Mr.V.Vasudevan,
No.16, Soundarapandian Street,
Ashok Nagar,
Chennai-600083.

... Petitioner

Versus

1. Sapna S. Shah
2. Banumathi S. Shah
3. M/s.NEPC (India) Ltd.
Rep. by its Director Mr.Khemka,
36, Wallahjab Road,
Police Quarters,
Triplicane, Chennai-600 002.

... Respondents

Prayer in CRP(PD) No. 4670 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.975 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4696 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common



C.R.P. Nos.4670 batch

Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.984 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4697 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.983 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4698 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.1504 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4701 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.1504 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4702 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.1505 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4704 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common



C.R.P. Nos.4670 batch

Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.976 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4705 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.979 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4707 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.976 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4708 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.975 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4709 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.984 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4710 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common



C.R.P. Nos.4670 batch

Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.978 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4711 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.978 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4712 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.983 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4715 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.4 of 2024 in C.O.S.No.1505 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

Prayer in CRP(PD) No. 4716 of 2024: Petition filed under Article 227 of the Constitution of India, praying to set aside the Common Fair and Decretal Order dated 06.09.2024 passed in I.A.No.5 of 2024 in C.O.S.No.979 of 2022 on the file of the learned Principal Commercial Court at Egmore, Chennai.

In all CRPs

For Petitioner : Mr.P.H.Dani Jeshwanth



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C.R.P. Nos.4670 batch

For Respondents : Ms.B.Jayanthi for
M/s.Shanmugham for R1
Mr.Sampath for R2

COMMON ORDER

These civil revision petitions challenge the order passed by the learned Principal Commercial Court at Egmore, Chennai, in the applications filed to reopen the side of the defendant and to recall DW1. These 16 revisions arise out of 8 suits that were originally presented before this Court in the year 2009. All the suits were presented for recovery of money.

2. The common plea of the plaintiff(s) is that they had paid several sums of money to the first defendant for the supply, erection and commissioning of windmills by the said defendant. The first defendant received the amount but had did not proceed further. When the plaintiff(s) called upon the first defendant to refund the amount, it washed his hands off by stating that it had sold the business, lock, stock and barrel to the second defendant and therefore, the second defendant who is answerable to the claim.



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3. The plaintiff(s) Being frustrated at the manner in which the

first and second defendants handled the money owed to them, came forward with the suits. The defendants were served with the summons and filed their written statement. Thereafter, the matter went for trial before the Original Side of this Court. The evidence of the plaintiff(s) were concluded, and it was listed for the evidence of the defendants.

4. It is the case of the civil revision petitioner/second defendant that their counsels, namely, Mr.Ezhilmani and Mr.Venkatraju had passed on in quick succession leaving their case undefended. The plaintiff(s), however, had cross-examined the first defendant.

5. Due to the enhancement of pecuniary jurisdiction of the City Civil Court, the suits were transferred to that Court. Before the learned City Civil Judge, the second defendant engaged their present counsel. The second defendant's counsel pleaded that he did not have any papers, as they were lost in the office of the previous counsels, who was no more. Therefore, they secured the papers afresh.



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6. Prolonging the agony of the plaintiff, the suit was transferred

from the City Civil Court to the file of the Commercial Court. The plaintiff(s) have submitted oral as well as written arguments and so has the first defendant.

7. When the second defendant was about to submit their arguments, it came to their notice that the first defendant had never been cross-examined by erstwhile counsels. Therefore, they filed applications to reopen and to recall DW1. The said applications were opposed by the first defendant. The learned trial Judge agreed with the first defendant and dismissed the applications. Hence, these revisions.

8. When the matter came up for admission, I requested Mr.Murali to serve the papers on the counsels, who represent the plaintiff and the first defendant in the Court below. The papers were served. Mr.M.S.Sampath appears for the plaintiff and Ms.B.Jayanthi, representing Mr.R.Shanmugam appears for the second respondent. Mr.Daniel Jaswath appears for the revision petitioner herein.



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9. I heard all the parties.

10. The narration of the facts goes to show that in the crossfire between the first and second defendants, the plaintiff(s) have been waiting for a decree to be passed in the suit. The plaintiff(s) have advanced sums to the first defendant and the first defendant had sold his business to the second defendant. The issue before the Court is whether the first defendant has to reimburse the amount received from the plaintiff(s), or the second defendant has to do so or whether the liability is joint and several. In these circumstances, it is essential that the second defendant be afforded an opportunity to cross-examine the first defendant. If not, the filing a written statement denying their liability would serve no purpose.

11. To my specific question to Ms.Jayanthi as well as Mr.Sampath as to whether Mr.Ezhilmani and Mr.Venkatraju are no more, both the counsel state in the affirmative. For the death of the counsels, the parties should not suffer. At the same time, I have taken into consideration the plight of the plaintiffs, who had advanced sums of



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money to the first defendant, at least two decades ago, and are still waiting to see the colour of the coin.

12. Since the counsels for the second defendant have passed on and therefore, the first defendant was not cross-examined by the second defendant, I am inclined to grant one opportunity to the second defendant to cross-examine the first defendant. Accordingly, the orders impugned in the revisions are set aside.

13. The learned trial Court is requested to call upon the first defendant to appear before her on **20.01.2025**. On that date, the second defendant should cross-examine the first defendant. For not having filed the applications in time, the second defendant would have to pay a costs of Rs.**5,000/-** in each of the suits to the first defendant (i.e.) Rs.40,000.00 in all. Once the payment of costs has been confirmed, the learned trial Judge shall grant an opportunity to the second defendant to cross-examine. In case, the costs is not paid before **20.01.2025**, these CRPs will stand dismissed without further notice to this Court.



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14. Learned Principal Commercial Court at Egmore, is

requested to dispose of the suits itself by **17.02.2025**.

15. With the above directions, the above Civil Revision

Petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

06.01.2025

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

The Principal Commercial Court
at Egmore, Chennai.



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C.R.P. Nos.4670 batch

V.LAKSHMINARAYANAN J.

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CRP. (PD)Nos.4670, 4696, 4697, 4698, 4701, 4702, 4704, 4705, 4707, 4708, 4709, 4710, 4711, 4712, 4715 and 4716 of 2024 & CMP Nos.26127, 26277, 26281, 26287, 26300, 26305, 26310, 26312, 26313, 26314, 26315, 26318, 26322, 26323, 26327 and 26328 of 2024

06.01.2025