



C.R.P.(PD)Nos.5213 & 5215 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.01.2025**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)Nos.5213 & 5215 of 2024
and C.M.P.Nos.29155 & 29159 of 2024

In both CRPs.

V.G.Thualasingam

.. Petitioner

Vs

1.T.V.Sundaram Iyengar and Sons Limited,
Represented by its Managing Director,
Madurai.

2.T.V.Sundaram Iyengar and Sons Limited,
Represented by its Branch Manager,
Villupuram.

3.TVS Mobility Private Limited,
Represented by its Managing Director,
No.10, Jawahar Road,
Chokkikulam, Madurai, Tamil Nadu.

.. Respondents



C.R.P.(PD)Nos.5213 & 5215 of 2024

COMMON PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 30.09.2024 in I.A.Nos.8 & 9 of 2024 in O.S.No.78 of 2014 passed by the learned Additional District Judge (Fast Track Court), Villupuram.

In both CRPs.

For Petitioner : Mr.S.Natarajan

For Respondents : Mr.K.V.Sajeev Kumar

COMMON ORDER

These civil revision petitions challenge the order of the learned Additional District Judge, Fast Track Court, Villupuram in I.A.Nos.8 & 9 of 2024 in O.S.No.78 of 2014, dated 30.09.2024.

2.The civil revision petitioner is the plaintiff.

3. O.S.No.78 of 2014 is a suit for recovery of a sum of Rs.20,00,000/- together with the interest at the rate of 24% per annum. The plaintiff pleads that he had purchased a vehicle bearing Registration No.TN-32C-2473 from the defendants. The defendants had given assurance that the vehicle would provide a 4.5 kilo meters per litre fuel



efficiency. However, while operating the vehicle, the plaintiff came to know that the vehicle has given only 2.8 kilometers per litre. Feeling aggrieved over the same, the plaintiff had initiated proceedings before the State Consumer Dispute Redressal Commission. The Commission dismissed the petition, leaving it open for the parties to approach the Civil Court. Hence, the suit for damages. Summons were served. The defendants have filed their written statement.

4. During the course of trial, the plaintiff marked Ex.A15. A communication allegedly said to have been issued by the 2nd defendant. This document stated that the vehicle has to undergo the change of the following parts:

- (i) Timer
- (ii) High pressure tube

When this document was confronted to D.W.1 who represents the defendants, he denied having any knowledge of the same. Hence, the plaintiff filed an application in I.A.No.2 of 2019 to summon the Sales Executive of the defendants and two mechanics in the company of the defendants for the purpose of substantiating Ex.A15. This application



C.R.P.(PD)Nos.5213 & 5215 of 2024

came to be dismissed by the Trial Court on 26.07.2019. The order was confirmed by this Court in C.R.P.No.3654 of 2019 dated 22.06.2022.

5. Thereafter, the plaintiff filed an application in I.A.Nos.8 & 9 of 2024, seeking to reopen and recall his side evidence for the purpose of marking the proof affidavit that had been sworn to by the defendants in C.C.No.36 of 2009 on the file of the State Consumer Dispute Redressal Commission. After receipt of a counter, those applications came to be dismissed by the learned Trial Judge. Hence, these revisions.

6. When the matter came up for admission, I requested Mr.S.Natarajan to serve the entire set of papers on Mr.K.R.Mahesh, the counsel who represents the respondents in the Court below. Service was effected and the respondents are represented by Mr.K.V.Sajeev Kumar.

7. I heard Mr.S.Natarajan for the civil revision petitioner and Mr.K.V.Sajeev Kumar for the respondents. I have gone through the entire records.



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8. Both the counsel reiterated the contentions that had placed before the Court below.

9. It is clear from the narration of the fact that the plaintiff has already marked Ex.A15 namely, the document allegedly issued by the 2nd defendant to him. This document had been denied by the defendant's witness during the course of his examination. The plaintiff now wants to substantiate the proof of Ex.A15 by filing the proof affidavit filed by the defendants in C.C.No.36 of 2009 before the State Consumer Dispute Redressal Commission.

10. This has absolutely nothing to do with the previous order passed by the learned Additional Principal District Judge at Villupuram in I.A.No.2 of 2019, which was confirmed by this Court in C.R.P.No.3654 of 2019, dated 22.06.2022. That was an application, where the plaintiff wanted to examine the witness/employees of the defendants. Now he wants to examine himself to mark the proof affidavit. Neither the plaintiff nor the defendants can deny the filing of the proof affidavits by them before the State Consumer Dispute Redressal Commission.



C.R.P.(PD)Nos.5213 & 5215 of 2024

11. When the parties are at trial, full liberty must be granted to them to place all the available records before the Court. Whether the document is relevant is a matter, which the learned Trial Judge, will decide at the time of marshalling of evidence before pronouncement of the judgment. For the mere fact that C.R.P.No.3654 of 2019 was dismissed by this Court does not mean that the plaintiff should be disallowed from filing the proof affidavit. Issue of *res judicata* does not arise, when it comes to procedural matters in the nature of reopen and recall applications.

12. At that stage, Mr.K.V.Sajeev Kumar points out that he has got the certified copy of the RC book, which he wants to produce before the Trial Court. If I were to relegate the defendants to file applications to reopen and recall for the purpose of marking the document, it only add to the delay. The suit has been pending for eleven years. It is time enough that the suit to be finally disposed of.

13. In the light of the above discussions, I pass the following directions:

(i) The order passed by the learned Additional District Judge (Fast



C.R.P.(PD)Nos.5213 & 5215 of 2024

Track Court), Villupuram in I.A.Nos.8 & 9 of 2024 dated 30.09.2024 are set aside;

(ii) The plaintiff is entitled to mark the proof affidavit filed by the defendants before the State Consumer Dispute Redressal Commission in C.C.No.36 of 2009 on the next date of hearing.

(iii) After the evidence of the plaintiff is over, the defendants shall cross-examine the plaintiff, if they so desire, on the said document.

(iv) It should be immediately followed by the defendants entering the witness box through D.W.1 and marking the RC book of the vehicle bearing Registration No.TN-32C-2473. The plaintiff shall right away cross-examine the defendants.

(v) The learned Trial Judge is requested to pass orders in the suit in O.S.No.78 of 2014 on or before **28.02.2025** and submit a report to this Court in compliance thereof.

14. With the above directions, the Civil Revision Petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.



C.R.P.(PD)Nos.5213 & 5215 of 2024

15. Post these revisions on **05.03.2025** for reporting compliance.

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08.01.2025

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation : Yes/No

Note to Office: Issue order copy today (8.1.2025)

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To

The Additional District Judge, Fast Track Court,
Villupuram.



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C.R.P.(PD)Nos.5213 & 5215 of 2024

V. LAKSHMINARAYANAN,J.

Kj

C.R.P.(PD)Nos.5213 & 5215 of 2024
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