



C.R.P.(PD).No.5374 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5374 of 2024
and
C.M.P.No. 29786 of 2024

1. The Manager,
Professional Courier,
Thiruvottiyur, Chennai- 600 019.
2. The Manager,
Professional Courier,
Nungambakkam, Chennai-600 034.

... Petitioners

Versus

1. Tmt.Deepa Arunochaleeshwer @ Deepa Arun
2. M/s.Aviation Star Express,
No.41/2, Dhanakoti Raja Street,
Ekkatuthangal, Chennai- 600 032.
3. M/s.DHL Express India Private Limited,
Plot No.12B, South Phase, 3rd Cross Street,
Guindy Industrial Estate,
Guindy, Chennai- 600 032.

... Respondents



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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the dismissal order dated 30th August 2024 pronounced in R.P.No.142 of 2023, by which dismissal order dated 12.12.2023 in C.M.P.No.115 of 2023 in C.C.No.94 of 2023 pronounced by the District Consumer Redressal Commission, Thiruvallur was confirmed, by permitting the petitioners to implead the 2nd and 3rd Respondents herein as proposed opposite parties in C.C.No.94 of 2023 on the file of District Consumer District Redressal Commission, Thiruvallur.

For Petitioner : Mr.R.Sathyanarayanan

ORDER

This civil revision petition challenges the order passed in R.P.No.142 of 2023, dated 30.08.2024, passed by the State Consumer Dispute Redressal Commission, in confirming the order passed by the District Consumer Redressal Commission, Thiruvallur in C.M.P.No.115 of 2023 in C.C.No.94 of 2023 dated 12.12.2023.



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2. C.C.No.94 of 2023 is a complaint presented by the 1st respondent herein. The 1st respondent pleaded that she had booked a parcel to be delivered to his son, who is residing in Texas, U.S.A. She had packed some goodies as her daughter-in-law was pregnant. The articles sent by her were worth about Rs.40,000/-.

3. The complaint proceeds that the petitioner had booked a box in which all the articles had been placed. The petitioners had charged her a sum of Rs.17,600/- as courier charges from Chennai to Texas. She was given an assurance that the articles would be delivered by 10.10.2022. Unfortunately, the box was not delivered. She alleged that her son had made several visits to collect the boxes sent through the respondent 2 and 3. As the same had not been delivered, he informed her about the same. Subsequently, the complainant approached the first opposite party, who is the 1st civil revision petitioner. The first opposite party directed her to approach the second opposite party. She approached the second opposite



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party. Yet she did not get a positive reply. She added that she issued a notice on 30.01.2023 to the second opposite party. On 15.02.2023, the second opposite party replied stating that the box had been placed on the ground floor of the apartment complex where the complainant's son is residing. As there was no solution to her issues, she presented C.C.No. 94 of 2023 on the file of the District Consumer Redressal Commission at Thiruvallur.

4. On being served with the summons, the civil revision petitioners filed a detailed counter. They accepted that the complainant had booked a parcel through them. They pleaded that, as per their standard operating procedure, the box so booked was dispatched through M/s. Aviation Star Express, a selling agent of M/s. DHL Express India Private Ltd. The parcel had been further forwarded to M/s.DHL, U.S.A. They added M/s.D.H.L.,U.S.A accepted the mistake of having kept the consignment outside the premises, instead of taking it back to their office or contacting the assignee, in this regard. Detailed documents numbering 10 had also been filed along with the counter to substantiate their case.



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5. Soon thereafter, the civil revision petitioners moved an application to implead M/s. Aviation Star Express and M/s. DHL Express India Pvt. Ltd. as parties to C.C. No. 94 of 2023. This application was numbered as C.M.P.No. 115 of 2023.

6. It was strongly opposed by the complainant. The District Consumer Redressal Forum did not agree with the civil revision petitioners and dismissed the petition to implead on 12.12.2023.

7. Challenging the same, a revision was preferred before the Tamil Nadu State Consumer Disputes Redressal Forum in R.P. No. 142 of 2023. The revision petition was dismissed on 30.08.2024.

8. Challenging both these orders, a further revision was presented to the National Consumer Disputes Redressal Commission. Even at the diary stage, the National Consumer Disputes Redressal Commission held that the



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Appeal is not maintainable and dismissed the same on 18.11.2024. The National Consumer Disputes Redressal Commission held that it is open to the civil revision petitioners to challenge the order passed by the State Consumer Disputes Redressal Forum and the District Consumer Redressal Forum before the High Court invoking its constitutional jurisdiction. Hence, this revision before this Court.

9. Originally, the matter was listed for 'Maintainability'. After perusal of the papers, I directed the Registry to number the revision if it is otherwise in order. Accordingly, this revision is put up for admission.

10. I heard Mr. R. Sathyanarayanan for the civil revision petitioner.

11. Mr. Sathyanarayanan states that there is an implied contract between the 1st respondent and the respondents 2 and 3 and therefore they are proper and necessary parties to C.C No. 94 of 2023. Mr. Sathyanarayanan adds that the records relating to the proof of delivery are



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available only with the 3rd Respondent viz., DHL Express India Private Limited and that M/s.DHL,USA will not hand over these records to the civil revision petitioners. Hence he urges the 3rd Respondent is a necessary party. He points out that though the Consumer Protection Act, does not expressly provide for a provision similar to Order I, Rule 10 of the Code of Civil Procedure, by implied and ancillary powers, the Commission possesses the power to implead the third party.

12. I have carefully considered the submissions of Mr. Sathyanarayanan.

13. A reading of C.C No. 94 of 2023 makes it clear that the contract had been entered between the 1st respondent and the civil revision petitioners. It is through the office of the civil revision petitioners that the respondents 2 and 3 were engaged to deliver the goods. It is not on the directions of the 1st respondent that the civil revision petitioners engaged the services of the 2nd and 3rd Respondents for the purpose of effecting the



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delivery. The contract had been entered into only between the petitioners and the 1st respondent. Hence, there is no privity of contract between the 1st respondent and the respondents 2 and 3.

14. It is the defense of the civil revision petitioners that the goods have been handed over to the respondents 2 and 3 who had attempted to deliver the goods to the son of the 1st respondent. It is the civil revision petitioners who pleaded that the delivery agent of M/s.DHL, USA had taken a photograph of the goods having been placed outside the apartment of the 1st respondent's son. For the purpose of supporting the defense of the civil revision petitioners, a party cannot be impleaded.

15. The Consumer Protection Act has enabled the Commission under Section 38 (9) to summon and to enforce attendance of any witness and to examine such witness on oath. It also has the power to cause discovery and inspection of any document or material object that can be used as evidence. If necessary, the District Consumer Dispute Redressal Commission has the



power to issue a commission for examination of any witness or document. If the civil revision petitioners want to produce records from the offices of the 2nd and 3rd respondents, they are always entitled to invoke these powers vested with the Commission. For the said purpose, the presence of the respondents 2 and 3 to this revision in the complaint is neither essential nor necessary.

16. Even if I were to agree with the argument of Mr. Satyanarayanan, which I am not, that the District Commission has the power to implead a person, still, the principles under the Code of Civil Procedure, as to who is a proper or necessary party has to be applied.

17. A necessary party is one, without whose presence, a Court cannot pronounce an effective verdict. As pointed out above, the contract is between the civil revision petitioners and the 1st respondent. The 1st respondent alleges deficiency in service by the civil revision petitioners. In order to decide this issue, the presence of respondents 2 and 3 is neither



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necessary nor essential.

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18. In any event, the scope of a revision under Article 227 challenging an order passed in a revision is limited. Unless and until the orders impugned suffer from perversity or lead to absurd results, it is incapable of being revised. As I do not find either vice in the orders passed by the State Consumer Dispute Redressal Forum or by the District Consumer Disputes Redressal Forum at Tiruvallur, I am not inclined to interfere in the revision.

In the light of above observations, this civil revision petition is dismissed. No costs.

03.01.2025

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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no



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To

1. The District Consumer Redressal Commission, Thiruvallur
2. The State Consumer Redressal Commission, Thiruvallur.



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V.LAKSHMINARAYANAN, J

arr

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