



CRP No.6413 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 6413 of 2025 and
CMP No.31717 of 2025**

1. R.Makesh Babu
S/o Late Rajendran, D.No 3-A,2nd
Main Road, Ramakrishnapuram,
Coimbatore 641001

Petitioner(s)

Vs

1. R.Asokan
S/o Ramadass, D.No 102, Ramanujam
Road West, R.S Puram, Coimbatore
641 002

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order passed by the Learned Judge, Commercial Court (Dist.Judge cadre), Coimbatore dated 19-11-2025 made in IA.No.4 of 2025 in COS.No.,87 of 2023 and to allow the interlocutory application as prayed for

For Petitioner(s): Mr. J. PRADEEP



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ORDER

This Civil Revision Petition is filed challenging the order passed by the Trial Court , dismissing the application filed by the petitioner, seeking rejection of plaint.

2. The respondent herein/plaintiff filed a suit seeking return of gold weighing 4,100 grams or in alternative for recovery of a sum of Rs.1,98,26,124/- with interest at the rate of 3% p.m.

3. According to the respondent/plaintiff, the petitioner/defendant approached him on 01.10.2021 to deposit gold weighing 4,100 grams for the purpose of making ornaments. The petitioner said to have agreed to pay market value of the gold with interest at the rate of 3% p.a. An agreement was entered into between them on 07.10.2021 and gold weighing 4,100 grams was deposited with the petitioner. Thereafter, the respondent issued a notice on 13.11.2021, calling upon the petitioner to return the gold or to pay the amount equivalent to market value of 4,100 grams gold together with interest. Since the petitioner failed to honour the demand made by the respondent, the instant suit has been filed for the above said reliefs.



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4. The petitioner filed a detailed written statement denying the very agreement itself. Subsequently, the petitioner filed an application seeking rejection of plaint on the ground that the suit is barred by limitation as well as other laws. The said application was dismissed by the Trial Court. Aggrieved by the same, the petitioner has filed the present civil revision petition.

5. It is pertinent to note that earlier, the petitioner herein filed CRP No.445 of 2024 seeking to strike off the plaint in COS No.87 of 2023 and the same was dismissed for default on 22.09.2025. Thereafter, instant application has been filed by the petitioner to reject the plaint and the same was dismissed on merits, which is impugned herein.

6. The learned counsel for the petitioner raised two points, viz., i) the petitioner was having 4 years time to return the gold and hence, the suit filed by the petitioner, within 4 years time, is prematured one and consequently the suit is not maintainable, ii) The respondent/plaintiff is a practicing advocate and as per Rule 47 of Bar Council of India Rules, he is prohibited from engaging in any other business and therefore, the suit filed by him based on the transaction in gold is barred.



7. The relevant provision in the agreement relied on by the learned counsel for the petitioner is extracted in the impugned order, which reads as follows.

“2. The party of the second part, shall however, return the 4,100 grams gold ornaments, to the party of the first part, on a written demand from him. However, there shall be a period of 4 years in the said demand for returning the gold ornaments. The period of 4 years shall commence from the date of receipt of such written demand by the party of the second part.”

8. A perusal of the above clause in the agreement would make it clear that the same is uncertain. The sentence in the said clause namely “ However, there shall be a period of 4 years in the said demand for returning the gold ornaments” does not specify any definite time limit. From the said provision, we are not in a position to come to the conclusion as to whether the demand shall be made within 4 years from the date of deposit, or the petitioner has got 4 years time to return the gold from the date of demand. If the clause in the agreement are not certain, the parties are at liberty to lead evidence to clarify the same. Therefore, at this juncture, we are not in a position to come to the conclusion that the demand made by the petitioner is prematured one and it is left open to the parties to lead evidence in this regard at the time of final disposal.



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9. As far as the point with regard to Rule 47 of the Bar Council of India Rules and Section 35 (A) of the Advocate Act is concerned, it only prohibits the advocate from engaging in any other business directly. If he is engaged in any other business, it would amount to misconduct, but the business will not become illegal. Therefore, we cannot say that the respondent is not entitled to institute a suit, based on his business transaction. However, his engagement in a business is prohibited under the Conduct Rules and the same will be a cause of action for taking disciplinary proceedings against him. However, the suit filed by him, based on the business transaction will not get barred. The Trial Court rightly appreciated the above said position and dismissed the application. I do not find any error in the order passed by the Trial Court.

10. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed

16.12.2025

Internet: Yes
Index: yes/no
Neutral citation: Yes/No
MST

To

The Commercial Court, Coimbatore.



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