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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR JUSTICE N.ANAND VENKATESH

Civil Revision Petition Nos.4608 & 4610 of 2024
CMP.Nos.25776, 25777, 25787 & 25788 of 2024

CNR:{HCMA011982492024} &
CNR:{HCMA011982482024}

Infrabiz Holdings SA
Having office at
Flat 2904 D, 2904 E, 2904 F,
3000 R, 3000 F, Sea View Wing,
Legend Building 220 Walkeshwar Road,
Mumbai. Rep.by its Authorised Signatory
Mr.Rajiv P.Mehta, A Belgian National,
residing at B-2901, the Legend Cooperative
Housing Society Ltd. Walkeshwar Mumbai &
having registered office at 9b, bd Prince Henri,
L-1724 Luxembourg

...Petitioner in
CRP.No.4608 of 2024

Pankaj K Mehta
S/o. Kirtilal Kalidas Mehta,
Residing at Flat 2904 D, 2904 E,
2904 F, 3000 R,3000 F
Sea View Wing, Legend Building 220,

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Walkeshwar Road, Mumbai,
Maharashtra-400 006, rep.by
his Power agent Digant Bhatt,
S/o. Kritilal Kalidas Mehta,
a Belgium National, Residing at
A/301, Jyoti Plza, S.V Road,
Kandivili West, Mumbai-400 067,
Presently residing at
Beukenlaan, 70 2020,
Antwerp, Belgium

...Petitioner in
CRP.No.4610 of 2024

Vs

1. Paresh K.Mehta **(Died)**
   S/o.Kirtilal Kalidas Mehta,
   Director of Suraj Agro Infrastructure
   India Pvt. Ltd., 114/B, Tahnee Heights,
   66, Nepeansea Road, Malabar Hills,
   Mumbai, Maharashtra-400006

2. Kaushik K Mehta
   S/o.Kirtilal Kalidas Mehta,
   134/B, Tahnee Heights,
   66, Nepeansea Road, Malabar Hills,
   Mumbai, Maharashtra-400006

3. Smita Paresh Mehta
   W/o Paresh K.Mehta
   114/B, Tahnee Heights, 66,
   Nepeansea Road, Malabar Hills,
   Mumbai, Maharashtra-400006

4. Paras Paresh Mehta
   S/o Paresh K.Mehta
   114/B, Tahnee Heights, 66,
   Nepeansea Road, Malabar Hills,
   Mumbai, Maharashtra-400006

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5. Saloni Saumil Parikh
D/o Paresh K Mehta
14, Tytan, 66, Nepean Sea Road,
Mumbai, Maharashtra 400 006

(R1 Died & R3 to R5 were brought on record as LRs of the deceased R1 vide order of Court dated 23.9.2026 made in CMP.Nos. 19905, 19907 & 19908 of 2026 in CRP.No.4608 of 2024 by NAVJ)

(R1 Died & R3 to R5 were brought on record as LRs of the deceased R1 vide order of Court dated 07.10.2026 made in CMP.Nos. 17148, 17153 & 17157 of 2026 in CRP.No.4610 of 2024 by NAVJ)

...Respondents in both CRPs

PETITIONS under Article 227 of The Constitution of India against the common order dated 26.4.2024 made respectively in I.A.Nos.6 and 5 of 2022 in O.S.No.913 of 2021 on the file of the Fourth Additional District Court, Coimbatore.

For Petitioner in both the CRPs: Mr.Sathish Parasaran, SC for Mr.Arun Karthik Mohan & Mr.Harshvardan Arora

For Respondents in both CRPs: R1-died
Mr.Om Prakash for
Mr.J.Kingsly Solomon for R3 to R5

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Mr.R.Murari, SC for
Ms.Preeti Mohan
Ms.R.Madhumitha &
Mr.Kaushik K.Mehta for R2

COMMON ORDER

These civil revision petitions have been filed under Article 227 of The Constitution of India challenging the common order dated 26.4.2024 made respectively in I.A.Nos.6 and 5 of 2022 in O.S.No. 913 of 2021 on the file of the Fourth Additional District Court, Coimbtore (for short, the Court below) wherein the applications filed by the petitioners/D1 & D2 seeking for rejection of the plaint, came to be dismissed.

2. During the pendency of these revisions, the first respondent/first plaintiff died and his legal heirs were brought on record.

3. Respondents 1 and 2/plaintiffs filed the said suit seeking for the relief of declaration to declare that they were entitled to and were the rightful owners of 56% of the 80% equity shares held by

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D2/petitioner in CRP.No.4608 of 2024 in the 3rd defendant company and to direct D2 to transfer 15,90,399 equity shares to respondents 1 & 2/plaintiffs and for permanent injunction restraining the defendants from interfering with the rights of respondents 1 and 2/ plaintiffs in the shares of the 3rd defendant company.

4. Later, D1 & D2 filed I.A.Nos.5 and 6 of 2022 under Order VII Rule 11 of the Civil Procedure Code (CPC) seeking to reject the plaint on the ground that there was no cause of action for filing the said suit; that it was barred by law in terms of Order II Rule 2(3) of the CPC and that it was also barred by the law of limitation.

5. The Court below, after considering the rival contentions, came to the conclusion that there were no merits in the said applications and accordingly, dismissed them by the impugned common order. Aggrieved by that, the above revision petitions have been filed before this Court.

6. The main ground that was urged on the side of the petitioners/D1 & D2 is that even on a plain reading of the averments

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made in the plaint in O.S.No.913 of 2021, it was admitted that the earlier suit in O.S.No.1005 of 2021 was filed by the same plaintiffs before the District Munsif Court, Coimbatore on the same cause of action; and that based on those averments alone, the present suit was barred under Order II Rule 2 of the CPC since the plaintiffs did not seek for any leave to file the subsequent suit in O.S.No.913 of 2021 to pray for a larger relief.

7. The second ground that has been urged on the side of the petitioners/D1 & D2 is that the plaintiffs were relying on an oral agreement and a share pledge agreement (SPA), which had taken place in the year 2012 whereas the present suit was filed only in the year 2021 and that the same was barred by limitation.

8. The third ground that has been urged on the side of the petitioners/D1 & D2 is that there was no cause of action for filing the present suit since the oral agreement and the SPA were relied upon by respondents 1 & 2/plaintiffs in relation to the shares of the 3rd defendant company, that the question of title of 56% out of 80% shares has not yet been decided and that in the absence of such

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adjudication, there was no cause of action for filing the present suit.

9. The last ground that has been urged on the side of the petitioners/D1 & D2 is that the Court below did not have the territorial jurisdiction to entertain the present suit since not even a part of cause of action had arisen within the territorial limits of the Court below.

10. Per contra, it is contended on the side of respondents 2 to 5 that the issue of res judicata cannot be considered in an application filed seeking to reject the plaint in view of the judgment of the Hon'ble Apex Court in ***S.Valliammai Vs. S.Ramanathan [Civil Appeal No.3624 of 2024 dated 16.4.2026]*** and that the cause of action was clearly spelt out in the averments that have been made in the plaint to the effect that the petitioners/D1 & D2 attended the annual general meeting that took place during September 2021 and started creating a cloud over the plaintiffs' right and title in respect of the shares in the 3rd defendant company.

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11. In so far as the issue of limitation is concerned, it is contended on the side of respondents 2 to 5 that it is a mixed question of fact and law, which can be decided only after the evidence is let in by both parties and at the time of final disposal of the present suit.

12. In so far as the issue of territorial jurisdiction that has been questioned by the petitioners/D1 & D2 is concerned, it is contended on the side of respondents 2 to 5 that it is not a ground for rejection of the plaint under Order VII Rule 11 of the CPC.

13. **Even though these civil revision petitions were filed under Article 227 of The Constitution of India, they are converted into one under Section 115 of the CPC** and this Court has heard the learned Senior Counsel appearing on behalf of the respective petitioner in both the cases and the respective learned counsel appearing on behalf of respondents 2 to 5 in both the cases.

14. This Court has carefully considered the submissions of the respective learned counsel appearing on either side and perused the

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materials available on record and more particularly the impugned common order.

15. The petitioners/D1 & D2 raised three grounds for rejection of the plaint. They are that the present suit was (i) bad due to lack of cause of action; (ii) barred under Order II Rule 2 of the CPC based on the very averments made in the plaint; and (iii) barred under the law of limitation.

16. The Court below, while dismissing the said applications, culled out the facts and the contentions raised on both sides starting from pages 2 to 21 of the impugned common order. The only reasoning given by the Court below, while dismissing the said applications, is extracted as hereunder:

> *"ix. So, considering the above, the contents raised in the petitions in I.A.No.5 of 2022 and I.A.No.6 of 2022 that no cause of action, barred by limitation; no jurisdiction to grant the relief sought in the suit are not proved and the plaintiffs have established the cognizance made under Section 9 of the CPC. Hence, this Court finds no merits in the*

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applications I.A.No.5 of 2022 & I.A.No.6 of 2022 and the Court is inclined to dismiss the applications. Thus, the point is answered accordingly."

17. The Court below is expected to deal with all the grounds raised by the petitioners/D1 & D2 in the applications filed for rejection of the plaint and the impugned common order is bereft of any reasons. The Court below rendered a finding that the petitioners/D1 & D2 had not proved that there was no cause of action and that the suit was barred by limitation. In the considered view of this Court, there is no question of proving these facts while dealing with the application for rejection of the plaint. The Court below is only expected to go into the averments made in the plaint together with the documents filed along with the plaint and nothing more. Hence, the impugned common order passed by the Court below is liable to be set aside and the said applications must be remitted back to the Court below to be dealt with on their own merits and in accordance with law to pass a reasoned order. That exercise cannot be done by this Court since this Court is only testing legality of the impugned common order passed by the Court below.

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18. In the light of the above discussions, the above civil revision petitions are allowed and the impugned common order dated 26.4.2024 made in I.A.Nos.5 and 6 of 2022 in O.S.No.913 of 2021 on the file of the Fourth Additional District Court, Coimbtore is set aside. I.A.Nos.5 and 6 of 2022 in O.S.No.913 of 2021 are remitted back to the file of the Fourth Additional District Court, Coimbatore. The Court below shall deal with the said applications on their own merits and in accordance with law and after affording an opportunity to both sides, pass a reasoned order within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected CMPs are closed.

27-10-2026

To
The Fourth Additional District
Court, Coimbatore.

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N.ANAND VENKATESH,J

RS

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