

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI.

PRESENT : Mr.**P. Mathusuthanan**, B.A., B.L.,
Principal District Judge,
Tiruvannamalai.

Friday, the 10th day of January - 2025

Original Suit No.232/2022
CNR No.TNTM01-005120-2022

Sri Sai Allied paper Packs Company Their proprietor Sivalakshmi Karthikeyan		... Plaintiff
	Vs	
1. Vijayakumar, Proprietor of FMCG 2. Soundarya, Manager of FMCG		...Defendants

This Original suit has come up before me on 10.12.2024 for final hearing in the presence of **Tr.K.Venkaviyaran** learned Advocate appearing for the Plaintiff and the defendants 1 & 2 remained exparte and upon hearing the argument and upon perusing the oral and documentary evidence adduced on the side of the plaintiff and having stood over for consideration till date, this court passed the following...

JUDGMENT

This Original Suit is filed by the plaintiff under Order VII Rule 1 of CPC for recovery of money of Rs.10,01,042/- with subsequent interest from the defendants and for costs.

2) **Brief averments of the plaint are as follows:**

The Plaintiff had completed B.Tech. (I.T.) graduation, applied for employment, due to failure of getting an employment, in the year 2019 the plaintiff intended to commence a business, discussed with her husband and parents-in-laws, as per their guidance had purchased paper machine with motive of running her own business had borrowed cash of Rs.10,00,000/- from her parents and friends altogether, when she browsed in Google about it in October 2019, she found details of the FMCG International company of the Defendants. Subsequently, the plaintiff had met the defendants at their company in Tiruvannamalai, when enquired about the company of Defendants, the defendants stated that FMCG International company had been existing in India and abroad and had been exporting different levels of paper pack machines. Subsequently the defendants informed the plaintiff that if the paper machine alone were used, yield of profit per month would be around Rs.50,000/- hence suggested the plaintiff to purchase the machinery producing paper bags. Following this, the plaintiff had obtained quotation at Rs.10,00,000/- for the paper machine and paper bag manufacturing machine from the defendants.

The plaintiff had visited in person the FMCG International company of the defendants on 22.01.2020, paid Rs.2,00,000/- towards advance to the Defendants, obtained receipt of the company of Defendants.

As the defendants had not delivered the paper pack machine since a long time, the plaintiff had contacted the defendants several times over the phone but they had been rejecting the calls of the plaintiff. Due to this reason, the plaintiff had met the defendants in person, represented her difficulties and requested for delivery of the machines immediately, in response thereof, the defendants had informed the plaintiff that they had not produced the machine and informed the plaintiff to purchase the smaller machine. Further, the defendants said that the value of the small paper pack machine was Rs.4,28,000/- issued quotation for the same in their company's name to the plaintiff. Also, they told her that they would deliver the machine within three months.

At this stage the plaintiff had done Registration the plaintiff company viz, Sri Sai Allied paper pack company on 06.01.2021 in the portal under Udayam of the Ministry of Micro Small and Medium Enterprises Ministry. Later, the plaintiff met the Defendants in person, requested for delivery of the paper pack machine ordered for. The above Defendants had informed with assurance that they would deliver the machine on 01.03.2021 subsequently, since the defendants had not delivered the paper pack machine to the plaintiff ordered on 01.03.2021 when the 2nd defendant was contacted over the phone and requested for deliver, the 2nd defendant informed that the machine was ready for deliver and that the 2nd defendant had told the plaintiff that she could come to their company and take delivery of the machine.

When she visited and viewed the machine on 01.03.2021, she was terribly shocked to find that the Defendants had not kept the machine ready and enquired. The defendants had shown another machine saying it was the same machine as the machine ordered by the plaintiff, and the other machine which was ready for export and that it was more beneficial than the machine ordered by the plaintiff, further they said that they would deliver the orders placed prior to the order of the plaintiff and then only could deliver the machine of the plaintiff. Then without another option, the plaintiff had informed that she would purchase the machine which the defendants pointed out and informed that they would deliver and requested for deliver. The defendants informed her that price of the above machine was Rs.7,00,000/- the plaintiff objected to it saying that she was paying interest for about one year for the amount paid on 22.01.2020 towards advance, and further that already she had suffered huge loss. At this stage, she could not purchase the machine by paying further more price and refused. Further, the plaintiff demanded to deliver the machine ordered for otherwise to return the advance amount paid by her. Then the defendant told the plaintiff that they would offer the machine quoted at Rs.7,00,000/- for Rs.5,00,000/- and asked to take delivery of the machine above on 03.03.2021. At this stage, the plaintiff paid the residual amount in person to the defendants on 01.03.2021. Then, when the plaintiff went to the company of the defendants on 03.03.2021 and requested to deliver the machine, the 2nd defendant Assistant of 1st defendant informed the GST had to be paid to effect delivery. At this juncture,

since the plaintiff refused to pay, the 2nd defendant said that she would reduce price of the machine and bill with GST matching the amount an issue receipt accordingly. Then the 2nd defendant reduced the price of the machine, prepared GST tax receipt and issued. Under this condition, the Plaintiff and defendants transacted fund of Rs.3,00,000/- on 03.03.2021 and 04.03.2021 in their respective bank accounts. Further way bill receipt prepared by the 2nd defendant for transportation and delivery of the machine to the company of the plaintiff.

Subsequently, after delivery of the machine on 03.03.2021, the defendants did not deploy any mechanic, engineer on 04.03.2021 to assemble the machine, instruct on its usage and methods of operation and also did not supply the spare parts, accessories. Under such instance, even though the plaintiff contacted the defendants over the phone several times, the defendants had been rejecting calls of the plaintiff. In such a situation, the plaintiff had purchased paper rolls for Rs.53,354/- on 26.04.2021 from Jayam Paper Cover Packs company. When the plaintiff had me the defendants in person requested, the defendants had forwarded a few spare parts through Murugan, Mechanic to the plaintiff's company on 28.07.2021. Then, Murugan mechanic of the defendants company, who visited the company of the plaintiff on 28.07.2021, fixed the accessories and operated the machine, the machine of the defendants company did not function. Under this condition, the mechanic Murugan of the defendants company had collected Rs.6,000/- towards fee for his visit on the above date saying he would rectify the machine and left without informing the plaintiff.

Thereafter, the plaintiff had arranged for making the machine delivered on 03.03.2021 to function, through the mechanic of Dhandapani paper Pack Machine company on 05.08.2021 and likewise arranged through mechanic Ravi of S.K.Machines company and through Mani Paper Pack machine company Salem. The receipts for payments towards professional fees made to the technicians of the above companies.

All the efforts taken by the plaintiff for getting operative the machine purchased from the defendants have ended in failure. Thereafter, the plaintiff had purchased a new paper machine for running the business for Rs.10,47,840/- from A.R. Industry Pudukkottai and is running business now. Also, that the machine purchased by the plaintiff from the company of the defendants is lying inoperative in the company of the plaintiff.

In this situation, the plaintiff had sent legal notice through her advocate on 28.07.2022. The Defendants signed and received the said legal notice on 02.08.2022 after which the defendants had been remaining without sending reply notice and not paying proper compensation. At this stage, the plaintiff had caused rejoinder notice dated 29.08.2022 through her advocate to effect corrections in their legal notice dated 28.07.2022 forwarded to the defendants.

Under this condition, the defendants have caused loss of about Rs.20,00,000/- in the name of their company to the plaintiff's company Sri Sai Allied Paper bag company. hence, the 1st defendant who is the owner of the

defendant company and the 2nd defendant who is their manager to pay the compensation of Rs.10,01,042/- with costs to the plaintiff company. Hence, the suit.

3) The defendants 1 & 2 remained exparte.

4) The point that arises for determination is that

Whether the plaintiff is entitled to claim the suit amount as sought for?

5) The plaintiff filed her proof affidavit and examined herself as PW1 and one Karthikeyan was examined as PW.2 and marked Ex.A1 to A16 to corroborate the averments of the plaint.

6) On perusal of the averments of the plaint as well as oral and documentary evidence adduced on the side of the plaintiff, it reveals that the plaintiff running her own business had borrowed cash of Rs.10,00,000/- from her parents and friends altogether, when she browsed in Google about it in October 2019, she found details of the FMCG International company of the Defendants. Subsequently, the plaintiff had met the defendants at their company in Tiruvannamalai, when enquired about the company of Defendants, the defendants stated that FMCG International company had been existing in India and abroad and had been exporting different levels of Paper pack machines. Subsequently the defendants informed the plaintiff that if the paper machine alone were used, yield of profit per month would be around Rs.50,000/- hence suggested the plaintiff to purchase the machinery producing paper bags. Following this, the plaintiff had obtained quotation at Rs.10,00,000/- for the

paper machine and paper bag manufacturing machine from the defendants.

Quotation is marked as Ex.A2. The plaintiff had visited in person the FMCG International company of the defendants on 22.01.2020, paid Rs.2,00,000/- towards advance to the Defendants, obtained receipt of the company of Defendants as evidenced by **Ex.A3 Receipt**. As the defendants had not delivered the paper pack machine since a long time, the plaintiff had contacted the defendants several times over the phone but they had been rejecting the calls of the plaintiff. Due to this reason, the plaintiff had met the defendants in person, represented her difficulties and requested for delivery of the machines immediately, in response thereof, the defendants had informed the plaintiff that they had not produced the machine and informed the plaintiff to purchase the smaller machine. Further, the defendants said that the value of the small paper pack machine was Rs.4,28,000/- issued quotation for the same in their company's name to the plaintiff. Also, they told her that they would deliver the machine within three months as evidenced by **Ex.A4 Quotation of the Small Paper Pack Machine**.

7) At this stage the plaintiff had done Registration the plaintiff company viz, Sri Sai Allied paper pack company on 06.01.2021 in the portal under Udayam of the Ministry of Micro Small and Medium Enterprises Ministry as evidenced by **Ex.A1 Registration Certificate of Udyam**. Later, the plaintiff met the Defendants in person, requested for delivery of the Paper Bag Machine ordered for. The above Defendants had informed with assurance that they would

deliver the machine on 01.03.2021 subsequently, since the defendants had not delivered the Paper Bag Machine to the plaintiff ordered on 01.03.2021 when the 2nd defendant was contacted over the phone and requested for deliver, the 2nd defendant informed that the machine was ready for deliver and that the 2nd defendant had told the plaintiff that she could come to their company and take delivery of the machine.

8) When she visited and viewed the machine on 01.03.2021, she was terribly shocked to find that the Defendants had not kept the machine ready and enquired. The defendants had shown another machine saying it was the same machine as the machine ordered by the plaintiff, and the other machine which was ready for export and that it was more beneficial than the machine ordered by the plaintiff, further they said that they would deliver the orders placed prior to the order of the plaintiff and then only could deliver the machine of the plaintiff. Then without another option, the plaintiff had informed that she would purchase the machine which the defendants pointed out and informed that they would deliver and requested for deliver. The defendants informed her that price of the above machine was Rs.7,00,000/- the plaintiff objected to it saying that she was paying interest for about one year for the amount paid on 22.01.2020 towards advance, and further that already she had suffered huge loss. At this stage, she could not purchase the machine by paying further more price and refused. Further, the plaintiff demanded to deliver the machine ordered for otherwise to return the advance amount paid by her. Then the defendant told the

plaintiff that they would offer the machine quoted at Rs.7,00,000/- for Rs.5,00,000/- and asked to take delivery of the machine above on 03.03.2021. At this stage, the plaintiff paid the residual amount in person to the defendants on 01.03.2021. Then, when the plaintiff went to the company of the defendants on 03.03.2021 and requested to deliver the machine, the 2nd defendant Assistant of 1st defendant informed the GST had to be paid to effect delivery. At this juncture, since the plaintiff refused to pay, the 2nd defendant said that she would reduce price of the machine and bill with GST matching the amount an issue receipt accordingly. Then the 2nd defendant reduced the price of the machine, prepared GST tax receipt and issued. Under this condition, the Plaintiff and defendants transacted fund of Rs.3,00,000/- on 03.03.2021 and 04.03.2021 in their respective bank accounts. **The bank register showing details of the above is marked as Ex.A5. Further, Way Bill Receipt prepared by the 2nd defendant for transportation and delivery of the machine to the company of the plaintiff on 03.03.2021 is marked as Ex.A6.**

9) Subsequently, after delivery of the machine on 03.03.2021, the defendants did not deploy any mechanic, engineer on 04.03.2021 to assemble the machine, instruct on its usage and methods of operation and also did not supply the spare parts, accessories. Under such instance, even though the plaintiff contacted the defendants over the phone several times, the defendants had been rejecting calls of the plaintiff. In such a situation, the plaintiff had purchased paper rolls for Rs.53,354/- on 26.04.2021 from Jayam Paper Cover

Packs company as evidenced by **Ex.A15 Cash Bill**. Following this, when the plaintiff had met the defendants in person requested, the defendants had forwarded a few spare parts through Murugan, Mechanic to the plaintiff's company on 28.07.2021. Then, Murugan mechanic of the defendants company, who visited the company of the plaintiff on 28.07.2021, fixed the accessories and operated the machine, the machine of the defendants company did not function. Under this condition, the mechanic Murugan of the defendants company had collected Rs.6,000/- towards fee for his visit on the above date saying he would rectify the machine and left without informing the plaintiff. **The receipt for payment of Rs.6,000/- to the mechanic of the Defendants company is marked as Ex.A7.** Also, that the machine purchased by the plaintiff from the company of the defendants is lying inoperative in the company of the plaintiff. All the efforts taken by the plaintiff for getting operative the machine purchased from the defendants have ended in failure. In such a circumstance, without no other option, she made an attempt to repair the machine through private technicians. But through the private technicians she realized that the machine provided by the defendants herein was not new one. But already used machine and it will require more cost to get operation.

10) Thereafter, the plaintiff had arranged for making the machine delivered on 03.03.2021 to function, through the mechanic of Dhandapani paper Pack Machine company on 05.08.2021 and likewise arranged through mechanic Ravi of S.K.Machines company and through Mani Paper Pack Machine

company Salem. **The receipts for payments towards professional fees made to the technicians of the above companies have been marked as Ex.A8 to A10 respectively.** Further, the payment receipt for Ball Bearing purchased by the plaintiff from A.M. Tool Ball Bearing on 11.10.2021 and from Sale and Service company on 11.10.2021 have been marked as Ex.A11 and A12 respectively.

11) Thereafter, the plaintiff had purchased a new paper machine for running the business for Rs.10,47,840/- from A.R. Industry Pudukkottai and is running business now. In this situation, the plaintiff had sent **legal notice through her advocate on 28.07.2022.** The Defendants signed and received the said **legal notice on 02.08.2022** after which the defendants had been remaining without sending reply notice and not paying proper compensation. At this stage, the plaintiff had caused **Rejoinder Notice dated 29.08.2022** through her advocate to effect corrections in their legal notice dated 28.07.2022 forwarded to the defendants as evidenced by **Ex.A13, A14 and A16** respectively.

12) Having considered the oral and documentary evidence adduced on the side of the plaintiff, it clearly reveals that the defendants 1 and 2 remained exparte and written statement has not been filed on the side of defendants. Since the defendants have not taken any steps to defend the plaint averments by way of filing Written statement and contest the case and more particularly the document Ex.A1 to A16. Hence, this court infers that the plaintiff has proved

his claim and the defendants are liable to pay the suit amount. Hence, in the absence of any rebuttal contention on the side of the defendants, this court has no hesitation to hold that the plaintiff is entitled to recover the suit amount of **Rs.10,01,042/-** with interest from the defendants as sought for and thus the point is answered accordingly.

In fine, the suit is decreed with costs. The defendants are directed to pay a sum of **Rs.10,01,042/-** to the plaintiff and also directed to pay interest at the rate of 12% p.a. for the principal amount of **Rs.10,01,042/-** from the date of plaint i.e. **10.10.2022** till the date of Judgment and thereafter at the rate of 6% p.a. from the date of Judgment till the date of realization.

This judgment is dictated to the Stenographer *Grade-III* of this court, typed by her directly in the Computer, corrected and pronounced by me in open Court, this the 10th day of January - 2025.

**Principal District Judge,
Tiruvannamalai.**

Witness examined on the side of the Plaintiff:

PW1	Tmt .Sivalakshimi (plaintiff)
PW2	Tr. Karthikeyan

Documents marked on the side of the Plaintiff:

Ex.A1	06.01.2021	Registration certificate of Udyam, standing in the name of Sri Sai Allied Paper Bags
Ex.A2	..	Original Quotation Issued by the defendants in favor of the plaintiff
Ex.A3	22.01.2020	Original Bill of Advance amount paid by the plaintiff in favor of defendant
Ex.A4	..	Original quotation of Small Paper Bag Machine
Ex.A5	..	State Bank of India Account Statement of the Plaintiff's husband
Ex.A6	03.03.2021	Original E-Way Bill in the name of plaintiff
Ex.A7	28.07.2021	Original Cash memo of Rs.6,000/- paid by the plaintiff
Ex.A8	05.08.2021	Original Cash memo of Rs.6,500/- paid by the plaintiff
Ex.A9	27.08.2021	Original Cash memo of Rs.5,000/- paid by the plaintiff
Ex.A10	09.10.2021	Original Cash memo of Rs.8,200/- paid by the plaintiff
Ex.A11	11.10.2021	Original Receipt for Ball Bearing purchased by the plaintiff from A.M.Tools Traders.
Ex.A12	11.10.2021	Copy of Tax Invoice from Sales Service Company.
Ex.A13	28.07.2022	Legal Notice issued by the plaintiff counsel to the defendants
Ex.A14	02.08.2022	Acknowledgment card

Ex.A15	26.04.2021	Original Cash Bill of Rs.53,354/- for paper purchasing from Jayam Paper Cover & Bags
Ex.A16	29.08.2022	Re-Joinder Notice issued by the plaintiff counsel to the defendants

PDJ.

Draft / Fair Judgment
in
O.S.No.232/2022
Dated : 10.01.2025

