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C.R.P.(PD)NO.2727 OF 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 31 / 10 / 2025

ORDER DELIVERED ON: 28 / 11 / 2025

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.(PD)NO.2727 OF 2021

AND

C.M.P.NO.19951 OF 2021

M/s.Foress Impex Pvt. Ltd.,
No.1/1, 1st Floor, Viswanathan Street,
RA Puram, Chennai – 600 028.

... Petitioner/Petitioner/
1st Defendant

Vs.

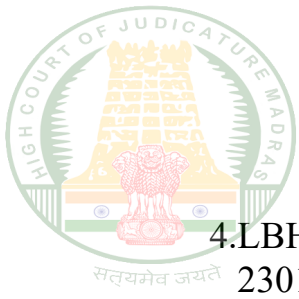
1.M/s.M+R Logistics (India) Pvt. Ltd.
No.56/57, 3rd Floor,
Rajaji Salai, Chennai – 600 001.
Represented by its Authorised Signatory

...1st Respondent/
1st Respondent
Plaintiff

2.M/s.Air Connection Private Ltd.,
Flat No.4, Door No.84,
Eldams Road, Teynampet,
Chennai – 600 018.

...2nd Respondent/
2nd Respondent
2nd Defendant

3.Unitrants Lines India Pvt. Ltd.,
2nd Floor, 24, Narayanasarang Garden Street,
Chennai – 600 001.



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4.LBH Group,
2301, Maputo, AV Martines de Inhaminga,
Recinto Porlcario N4, Maputo,
Mozambique.

5.Sanco,
2nd Floor, 24, Narayanasarang Garden Street,
Chennai – 600 001.

6.Sarjak Container Lines Pvt. Ltd.,
DLH Plaza, 8th Floor, Cosmos Building,
Opp.Shoppers Stop, SV Road,
Andheri West, Mumbai – 400 058.

7.Reddys Global Industries, LDA,
Caixa Postal, 204, Maputo,
Mozambique.

... Respondents 3 to 7/
Respondents 3 to 7/

Proposed Defendants 3 to 7

PRAYER : Civil Revision Petition filed under Article 227 of
Constitution of India, 1950, praying to set aside the Fair and Decreetal
Order dated November 14, 2018 passed in I.A.No.571 of 2017 in
O.S.No.2414 of 2016 on the file of the XIV Assistant City Civil Court,
Chennai.

For Petitioner	:	Mr.Ravikumar Paul, Senior Counsel for M/s.Paul and Paul and J. Hudson Samuel & Partners
For Respondent-1	:	Mr.V.S.Rishwanth for Mr.S.Raghunathan for R1
For Respondents-		



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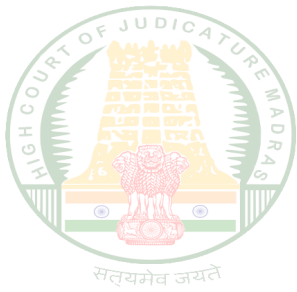
2, 3 & 5 : Served – No appearance
For Respondents-
4 & 7 : Not ready in notice
For Respondent-6 : Mr.H.Siddharath
for Mr.P.Giridharan

ORDER

Feeling aggrieved by the Dismissal Order dated November 14, 2018 passed in the Interlocutory Application filed under Order I Rule 10 (2) of Code of Civil Procedure, 1908 in I.A.No.571 of 2017 in O.S.No.2414 of 2016 on the file of 'the XIV Assistant Judge, City Civil Court, Chennai' (hereinafter referred to as the 'Trial Court'), the Petitioner therein has preferred this Civil Revision Petition.

2.The Revision Petitioner herein is the 1st Defendant, the 1st Respondent herein is the Plaintiff and the 2nd Respondent herein is the 2nd Defendant in the Original Suit. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Suit.

3.The Plaintiff filed a Suit against the Defendants seeking a money decree directing them to pay a sum of Rs.9,16,079/- along with interest at 18% per annum on Rs.7,81,235/- from the date of plaint till the date of realization.



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5.When the case was posted for trial, the 1st Defendant filed an Interlocutory Application in I.A.No.571 of 2017 to implead Respondents 3 to 7 herein as proposed Defendants 3 to 7 in the Suit as necessary / proper parties to decide the counter claim.

6.The Trial Court after hearing both sides, concluded that the Plaintiff is the *dominus litus* and he has the right to choose the Defendants. If the Plaintiff did not implead the necessary parties, the case will be bad for non-joinder of necessary parties and must fail. Further, the Plaintiff did not seek any relief against the Respondents 3 to 7 / proposed Defendants. Accordingly, the Trial Court dismissed the Interlocutory Application.



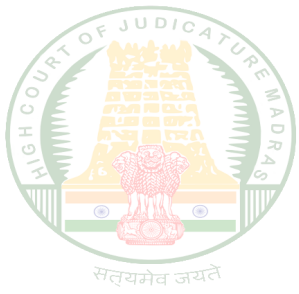
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7. Feeling aggrieved by the Dismissal Order, the Revision

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Petitioner/1st Defendant filed this Civil Revision Petition.

8. Mr. Ravikumar Paul, learned Senior Advocate appearing for the Revision Petitioner submitted that the first defendant filed a written statement with counter claim seeking money decree against the plaintiff. He drew attention to Order VIII Rule 6-A to 6-G of the Code of Civil Procedure, 1908 and submitted that counter claim shall be treated as a plaint and the rules applicable to the plaint applies to counter claim. In short, the counter claim shall be treated as a separate Suit against the plaintiff. To adjudicate the counter claim, the proposed parties are necessary / proper parties. The Trial Court did not properly appreciate the facts and dismissed the petition. In support of his arguments, he relied on Sarojini Amma -vs- Dakshshyani Amma reported in 1994 SCC OnLine Ker 281; Jag Mohan Chawla -vs- Dera Radha Swami Satsang reported in (1996) 4 SCC 699; Rajul Manoj Shah alias Rajeshwari Rasiklal Sheth -vs- Kiranbhai Shakrabhai Patel reported in 2025 SCC OnLine SC 1958; and A.V. Murugan -vs- K. Maheswari reported in 2019 SCC OnLine Mad 39139.



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9.Mr.V.S.Rishwanth, learned Counsel appearing for the 1st

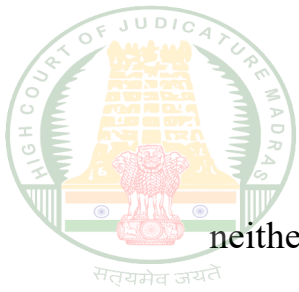
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Respondent referred to the pleadings and submitted that the plaintiff is the *dominus litis*. He seeks money decree against the defendants 1 and 2 alone. The first defendant filed a counter claim against the plaintiff alone. Hence, the proposed parties are not necessary parties to decide the dispute between the plaintiff and defendants 1 and 2. The first defendant can very well summon the proposed parties for examination during trial if he so desires. In a counter claim, the first defendant cannot implead new parties. If the first defendant feels that the respondents 3 to 7 are proper / necessary parties, then he ought to have filed an independent Suit. The Trial Court has rightly dismissed the Interlocutory Application. There is no need to interfere with it. Accordingly he prayed to dismiss the Civil Revision Petition. In support of his arguments, he relied upon the Judgment of this Court in *Ukravel -vs- Senthilmurugan* reported in 2015 SCC OnLine Mad 6071.

10.Mr.H.Siddharath, learned Counsel appearing for the 6th

Respondent submitted that the counter-claim can only be set up against the claim of the plaintiffs. No relief was sought for against the Respondent No.6 in the counter claim. Hence, Respondent No.6 is

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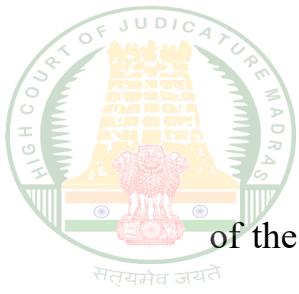


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neither a necessary party nor a proper party to the Suit as well as the counter claim. In support of his submissions, he relied on Judgment of the Hon'ble Supreme Court in Satyender -vs- Saroj reported in (2022) 17 SCC 154.

11. Heard on either side. Perused the entire materials available on record. The question involved in this case is whether the defendant can implead a new parties [who are not parties to the Suit] in his/her counter claim.

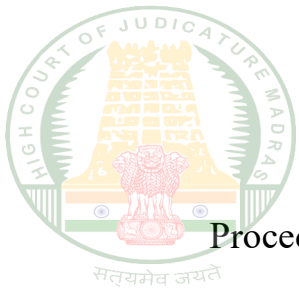
12. In the year 1976, the Code of Civil Procedure, 1908 was amended by way of the Code of Civil Procedure, (Amendment) Act, 1976 [Act No.104 of 1976], whereby Rule 6 - A to 6 - G were inserted under Order VIII. As per the said Rules, the defendant can set up a counter claim against the plaintiff in a Suit. The counter claim shall be treated as a plaint and be govern by the rules applicable to plaint. Such counter claim shall have same effect as a cross-suit. The plaintiff can file written statement in answer to the counter-claim. The condition is that the counter-claim shall not exceed the pecuniary limits of the jurisdiction



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of the Court. In appropriate cases, the plaintiff can seek an order that the counter-claim may be excluded and that a separate Suit be filed. If in any case the plaintiff's Suit is stayed or discontinued or dismissed, the counter claim may nevertheless be proceeded further with as if it is a separate Suit in accordance with law.

13. The sum and substance of the affidavit filed in support of the petition would reveal that the proposed respondents 3 to 7 are not necessary parties, but proper parties to adjudicate the counter claim. No relief is sought for against the respondents 3 to 7 in the counter claim by the first defendant. In these circumstances, this Court is of the view that the first defendant cannot seek impleadment of respondents 3 to 7 in a Suit filed by the plaintiff. As rightly contended by the learned Counsels for the respondents 1 and 6, the plaintiff is the *dominus litis* and he alone can decide who is to be a party to the Suit. If in case the Court feels that the proposed parties are necessary parties to the Suit, the Court can implead them. The first defendant feels that respondents 3 to 7 are proper / necessary parties to the Suit to adjudicate his counter claim, in such a scenario, he can file an independent Suit and make a prayer for joint trial or simultaneous trial as the case may be as per the Code of Civil



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Procedure, 1908. Further, if the first defendant wants to examine respondents 3 to 7 as witnesses, he can very well do so by invoking the provision under Order XVI Rule 1 of the Code of Civil Procedure, 1908 and summon the respondent 3 to 7 as witnesses to prove his counter claim. The Trial Court rightly dismissed the application filed by the first defendant under Order I Rule 10 (2) of Code of Civil Procedure, 1908 in I.A.No.571 of 2017 and there seems to be no reason to interfere with it. No dispute with the case laws relied on by the learned Counsels.

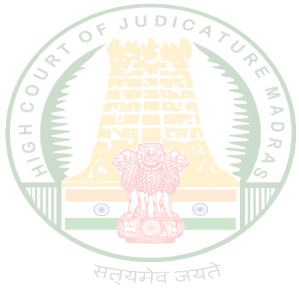
14. In the result, the Civil Revision Petition is dismissed. In view of the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

28/11/2025

Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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To

The XIV Assistant Judge,
City Civil Court,
Chennai.



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN

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