

CRP Nos.4807 and 4812 of 2023

CRP Nos.4807 of 2023 and 4812 of 2023

P.B.BALJI, J.

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These matters are listed today under the caption “ for being mentioned”, at the instance of the learned counsel for the petitioner, to clarify the common order passed by this court, dated 12.06.2025 in CRP Nos.4807 and 4812 of 2023.

2. This clarification order pertains only to CRP No.4812 of 2023.

3. Heard Mr.R.Subramanian, learned counsel for the petitioner.

4. Despite names of the contesting respondent, namely, Mrs. R. Hemalatha, and Ms. Mathumitha, having been printed in the cause list yesterday and as well as today, there is no representation on behalf of the respondent.

5. Mr.R.Subramanian, learned counsel for the petitioner states that despite this court foreclosing the right of the defendant/respondent to file a written statement in the suit, the defendant is representing before the trial court, as if, this court has granted permission to file written statement and also counter claim.

6. The common order, dated 12.06.2025 was passed by me pertaining to two civil revision petitions, namely, CRP Nos.4807 and 4812 of 2023. In so far as CRP No.4807 of 2023 is concerned, the contesting respondent/defendant therein was given one opportunity to pay court fees on the counter claim and that the counter claim was directed to be tested on its own merits. However, in so far as CRP No.4812 of 2023 is concerned, no liberty was granted to the respondent/defendant.

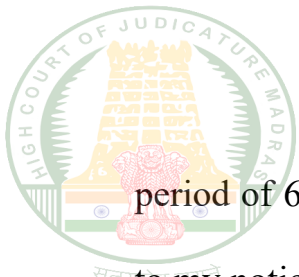


CRP Nos.4807 and 4812 of 2023

7. It is now, brought to my notice by Mr.R.Subramanian, learned counsel for the civil revision petitioner that taking advantage of the common order and misconstruing the directions issued therein, the respondent/defendant is now attempted to enter witness box and also file documentary evidence.

8. I have already held that the defendant has lost his right, since he has not filed a written statement, within the statutory period, including the exemption period of 30 days. In such view of the matter, the observation with regard to the other revision, cannot be misinterpreted to mean that liberty has been given to the defendants/ respondents in CRP No.4807 of 2023. They have no audience by way of filing any documentary evidence, leave alone enter the witness box and file a proof affidavit. The only avenue open to the respondent is to test the plaint averments and allegations through the plaintiff's witnesses by cross examining the witnesses on the plaintiff side. The defendant shall not have any right to lead evidence oral or documentary.

9. Mr.R.Subramanian, learned counsel for the petitioner would also bring to my notice that though the PW1 entered the witness box for the purposes of being cross examined as early as on 07.11.2025 and despite 15 adjournments being granted, cross examination of PW1 has not been completed. He would also invite my attention to the order passed by this court, dated 29.04.2026 in the present civil revision petitions, where, a direction was given to the trial court to take up the matters on day to day basis and complete the trial and dispose of the suits within a



CRP Nos.4807 and 4812 of 2023

period of 6 months from 29.04.2026. The learned counsel for the petitioner brings

to my notice that till date, PW1's cross examination has not been completed.

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10. In the light of the above, considering that the suit is a commercial suit and also in view of the specific directions issued by this court on 29.04.2026, the Commercial Court, Thiruvallur shall ensure that examination of PW1 shall be concluded by 31.08.2026 and arguments shall be heard thereafter and the suit in C.O.S.No.557 of 2021 shall be disposed of on or before 15.10.2026.

11. It is made clear that this clarification order pertains only to CRP No.4812 of 2023. The order passed in so far as CRP No.4807/2023 stands unaltered.

30.07.2026

Note: Issue order copy on 30.07.2026

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CRP Nos.4807 and 4812 of 2023

P.B.BALAJI, J.

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CRP Nos.4807 and 4812 of 2023

30.07.2026



CRP Nos.4807 and 4812 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.06.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI
CRP.Nos.4807 & 4812 of 2023
& CMP.No.28556 of 2023

Ganesh Electricals,
Rep by its Proprietor,
B.Kumareson,
No.1, II Floor, New Street,
Sakthi Nagar,
Porur – 600 016.

... Petitioner in both CRPs

Vs.

Venus Electrical Works,
Rep by its Proprietor A.Murugavel,
nd
S-9, 2 Floor, New Shopping Complex,
No.100, Jawaharlal Nehru Street,
Pondicherry – 605 001.

... Respondent in CRP.No.4807 of 2023

K.S.Mani Electricals,
Rep. by its Proprietor,
K.Subramaniyan
No.50, III Cross Street,
Velmurugan Nagar,
Kuyavarpalayam,
Pondicherry – 605 103.

... Respondent in CRP.No.4812 of 2023

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the order dated 14.09.2023 in I.A.No.5 of 2023 in C.O.S.No.548 of 2021 and I.A.No.6 of 2023 in C.O.S.No.557 of 2021 respectively on the file of the Principal District Court, Thiruvallur.

For Petitioner : Mr.R.Subramanian in both CRPs

For Respondent :



CRP Nos.4807 and 4812 of 2023

Mr.Sharath Chandran in CRP.No.4807 of 2023
Mrs.R.Hemalatha in CRP.No.4812 of 2023

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COMMON ORDER

These Civil Revision Petitions are at the instance of the plaintiff in commercial suits pending before the Principal District Court, Thiruvallur.

2.Both the defendants took out applications in the respective commercial suits filed against them, seeking the Court to frame a preliminary issue with regard to territorial jurisdiction of the Court. The said applications were resisted by the revision petitioner. However, the commercial Court has proceeded to allow the applications, on enquiry and aggrieved by the same, the plaintiff is before this Court by way of these revisions.

3.I have heard Mr.R.Subramanian, learned counsel for the revision petitioner in both petitions, Mr.Sharath Chandran, learned counsel for the respondent in CRP.No.4807 of 2023 and Mrs.R.Hemalatha, learned counsel for the respondent in CRP.No.4812 of 2023.

4.Mr.R.Subramanian, learned counsel for the revision petitioner in both the revision petitions would submit that the suits have been filed against the respective defendants, who are respondents in these revisions for recovery of monies due from

6 of 11



CRP Nos.4807 and 4812 of 2023

them, arising out of a contract entered into between the plaintiff and the defendants.

It is to be noted that the plaintiff has been awarded a contract by the Government of Pondicherry and a part of the contract work (labour contract) has been assigned/made over to the defendants. According to the plaintiff, the plaintiff's office is situate in Porur, within the jurisdiction of the Principal District Court, Thiruvallur and it is the place where the contracts have been signed with the defendants and further, payments have been made by the defendants only from their bank account, which is also situate in the jurisdiction of the Principal District Court, Thiruvallur.

5.The learned counsel for the petitioner would further submit that the issues have not been framed in the suit and in fact, the defendants did not choose to file their written statement within the mandatory period of 120 days and the applications are also pending for attachment before the judgment as well as seeking directions to the garnishee. An application has also been taken out by the plaintiff to strike of the defense since the written statement has not been filed within a period of 120 days. Admittedly, these applications are pending and he would therefore submit that the application for taking up the issue of territorial jurisdiction as a preliminary issue itself was premature and the Court below ought not to have entertained the same. He would further submit that part of cause of action for the suit arose only within the jurisdiction of the Principal District Court, Thiruvallur

7 of 11



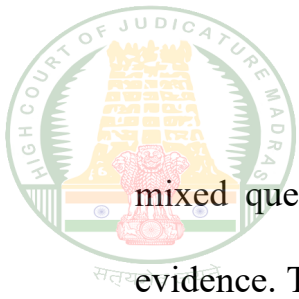
CRP Nos.4807 and 4812 of 2023

and hence, unless the issues are framed in the suit, there was no necessity to decide the question of territorial jurisdiction as a preliminary issue. He would therefore pray for the revision petitions being allowed.

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6.Per contra, Mr.Sharath Chandran as well as Mrs.R.Hemalatha, learned counsel for the respondents would submit that the entire cause of action arose only within the jurisdiction of the Courts at Pondicherry and no part of cause of action arose within the territorial jurisdiction of the Principal District Court, Thiruvallur. They would further submit that even if the written statement cannot be entertained, it is always open to the Court to entertain and decide the counter claim that has been made and the suit can be proceeded with. Therefore, they contend that the pendency of the applications for strike off may not be relevant for the purposes of the application regarding the decision on territorial jurisdiction. They would further submit that the plaintiff has also not made out a case for part of cause of action arising within the jurisdiction of the Principal District Court, Thiruvallur. They would therefore seek for confirmation of the order of Principal District Court, Thiruvallur.

7.The question of cause of action or part of cause of action arising within the Court of jurisdiction of the Principal District Court, Thiruvallur, is certainly a



CRP Nos.4807 and 4812 of 2023

mixed question of fact as well as law and the parties necessarily have to lead evidence. The learned counsel for the petitioner, at this stage fairly submits that the plaintiff would have no objection for the counter claim to be taken on file, even though the defendants had lost their right to file their written statement, provided proper Court fee is paid on the counter claim and the parties may be directed to proceed with the trial. However, at the same time, when the defendants have specifically raised the issue of territorial jurisdiction, the Court necessarily will have to go into the said question also as an issue. In this regard, an issue shall be framed along with the other issues and the defendants, subject to payment of Court fee on the counter claim made, shall be entitled to have their respective counter claims also heard along with the suit claim. The defendants are given 4 weeks time, to pay the applicable Court fees on the counter claim, from the date of receipt of a copy of this order. The Trial Court shall take up the trial of the suit and complete the pleadings, within a period of 8 weeks from the date of receipt of a copy of this order and thereafter shall dispose of the suit as well as the counter claim, if any filed, within a period of three months thereafter. It is made clear that the Interlocutory Applications shall be taken up and decided along with the suit.

8. With these above observations and directions, these Civil Revision Petitions are allowed and the order dated 14.09.2023 in I.A.No.5 of 2023 in C.O.S.No.548 of 2021 and I.A.No.6 of 2023 in C.O.S.No.557 of 2021 respectively

9 of 11



CRP Nos.4807 and 4812 of 2023

on the file of the Principal District Court, Thiruvallur, is hereby set aside. There

shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

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12.06.2025

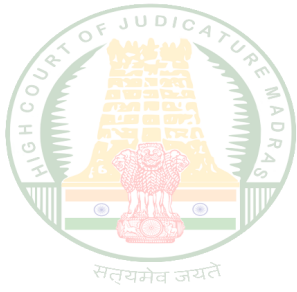
Speaking/Non-speaking : Yes/No

Index : Yes / No

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To

The Principal District Court, Thiruvallur.



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CRP Nos.4807 and 4812 of 2023

P.B. BALAJI,J.

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CRP.Nos.4807 & 4812 of 2023
& CMP.No.28556 of 2023

12.06.2025