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CRP No. 5417 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-03-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 5417 of 2025

AND

CMP NO. 27266 OF 2025

Gopalakrishnan

Proprietor M/s. Jayam Enterprises, (Old address)

No. 3, Arulayampet, 1st Street, Thiru-Vi-Ka

Industrial Estate, Chennai 32 presently at No. 96

5th Street, Ramamurthy Avenue, Kolappakkam,

Gerugambakkam, Kancheepuram 600122

..Petitioner(s)

Vs

1. Nihar Fathima

Proprietrix of M/s, The Professional Couriers,

having a Regional Head Office at No. 32,

Thiru-Vi-Ka Road, Royapettah, Chennai 14,

Rep by her General Manager and Power Agent

A.Mohideen Gani, S/o. Late.P.K.Abdul

Hameed

2. M/s. CPR Royal Enterprises

(Old address) No. 3, Arulayampet, 1st Street,

Thiru-Vi-Ka Industrial Estate, Chennai 32

presently at No. 96 5th Street, Ramamurthy

Avenue, Kolappakkam, Gerugambakkam,

Kancheepuram 600122

3. G.Jayanthi

W/o. Gopalakrishnan

No. 96 5th Street, Ramamurthy Avenue,

Kolappakkam, Gerugambakkam,

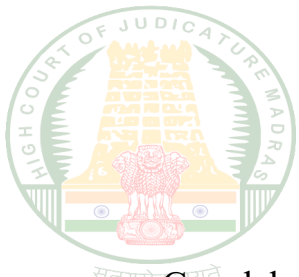
Kancheepuram 600128

4. G.Vishnupriya

D/o. Gopalakrishnan No. 96 5th Street,

Ramamurthy Avenue, Kolappakkam,

Gerugambakkam, Kancheepuram 600128



..Respondent(s)

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..Appellant(s)

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..Respondent(s)

CRP No. 5417 of 2025

To set aside the order dt. 26.09.2025 passed in I.A No. 3/2025 in
AS No. 105 of 2022 against OS No. 7266 of 2019 on the file of the XVIII



Additional City Civil Court, Chennai.

CMP No. 27266 of 2025

To Stay the operation and all further proceedings pursuant to the order dt. 26.09.2025 passed in I.A No. 3/2025 in AS No. 105 of 2022 against OS No. 7266 of 2019 on the file of the XVIII Additional City Civil Court, Chennai pending disposal of the above CRP

CRP No. 5417 of 2025

For Petitioner(s): Mr.Anoj Elangovan

For Respondent(s): M/s.R.Sathyanarayanan For R1

Order

- (1) The petition is filed by the petitioner against the order dated 26.09.2025, passed in IA.No.3/2025, in AS.No.105/2022, by the learned XVIII Additional Judge, City Civil Court, Chennai, allowing the petition to implead the proposed parties as respondents 3 and 4 in the appeal.
- (2) The suit in OS.No.7266/2019, was filed by the 1st respondent/plaintiff, for recovery of Rs.8,59,763/-, from the defendants. The said suit was dismissed on 14.10.2022, on multiple grounds including non-joinder of necessary parties. Aggrieved by the judgment and decree of the Trial Court, the plaintiff preferred AS.No.105/2022 before the learned XVIII Additional Judge, City Civil Court, Chennai.
- (3) The petitioner states that the 1st respondent/plaintiff did not serve the notice to the correct address of the petitioner and the petitioner was set exparte in the appeal and an exparte decree was passed on 08.08.2023 in



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favour of the plaintiff. The petitioner further states that thereafter, on coming to know of the exparte decree at the time of hearing of the Execution Petition, in EP.No.770/2024, the petitioner filed an application to set aside the exparte decree. The Lower Appellate Court, while setting aside the exparte decree on 19.06.2025, directed the petitioner herein to disclose the names of all the partners of M/s.CPR Royal Enterprises, the 2nd respondent herein, by 27.06.2025. The petitioner states that in compliance of the aforesaid order, the petitioner filed an affidavit on 27.06.2025, disclosing the particulars of the other partners, namely, Mrs.G.Jayanthi and Ms.G.Vishnupriya, as partners of the Firm. Thereafter, the 1st respondent filed an application in IA.No.3/2025, under Order 1 Rule 10[2] of CPC, seeking to implead the aforesaid persons as respondents 3 and 4 in the appeal. The petitioner filed a counter to the said petition. However, the Lower Appellate Court, by the impugned order dated 26.09.2025, allowed IA.No.3/2025, directing impleadment of the proposed respondents 3 and 4 as respondents in the appeal. Aggrieved by the said order, the petitioner filed the above CRP for the aforesaid relief.

- (4) The learned counsel for the petitioner submitted that the 1st respondent had full knowledge of the other parties even at the time of trial and therefore, the 1st respondent ought to have taken steps to implead the aforesaid respondents before the Trial Court itself. The learned counsel



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further submitted that after the dismissal of the suit among other grounds, on the ground of non-joinder of necessary parties, the 1st respondent took steps to implead the respondents 3 and 4 and therefore, the Lower Appellate Court ought to have dismissed the petition. The learned counsel submitted that the application for impleadment is barred by limitation. The learned counsel, relying on Section 21 of the Limitation Act, submitted that the Lower Court erred in reserving the issue of limitation for consideration at the time of final disposal of the appeal, overlooking that such issue deserved to be decided at the threshold. The learned counsel further submitted that the Lower Appellate court, erred in rejecting the petitioner's contention that the Appellate Court was not empowered to implead parties by relying on the provisions of Order 41 of CPC. The learned counsel therefore submitted that the impugned order is not sustainable and the same deserves to be set aside.

- (5) The learned counsel appearing for the 1st respondent/plaintiff, on the other hand submitted that since the petitioner failed to provide the particulars of the other partners, the 1st respondent was not able to implead them before the Trial Court. The learned counsel submitted that when the petitioner himself admitted in the affidavit that, only on the directions of the Lower Appellate Court, while setting aside the exparte decree on 19.06.2025, that the petitioner filed an affidavit on 27.06.2025, disclosing the names of the other partners, the contention that the 1st



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respondent had knowledge of the impleading parties even at the time of trial, was misconceived. The learned counsel further submitted that only after the dismissal of the suit for non joinder of necessary parties, the 1st respondent was informed of the other partners and immediately thereafter, he took steps to implead the other partners and therefore, the Lower Appellate Court was right in allowing the petition. The learned counsel therefore prayed that the impugned order is legal and hence, prayed to dismiss the Civil Revision Petition.

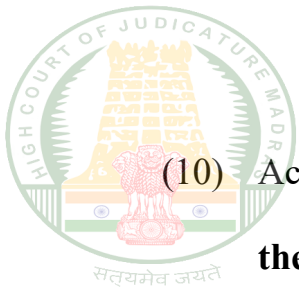
- (6) Heard both sides and perused the materials placed on record.
- (7) At the outset, this Court would like to point out that the 1st defendant in his written statement, did not disclose the particulars of respondents 3 and 4, but merely stated that his wife and daughter were also partners. During the pendency of the suit, the particulars of the said partners were not disclosed. The suit was decreed exparte on 08.08.2023 and thereafter, EP.No.770/2024 was filed. The petitioner learnt about the exparte decree during the aforesaid execution proceedings and therefore, filed an application to set aside the exparte decree. It was only after an order was passed by the Lower Appellate Court on 19.06.2025, setting aside the exparte decree, and directing the petitioner herein to disclose the names of all the partners, that the petitioner filed an affidavit on 27.06.2025, disclosing the names of Mrs.G.Jayanthi and Ms.G.Vishnupriya, as partners of the Firm. Pursuant thereto, the 1st respondent filed



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IA.No.3/2025 under Order 1 Rule 10 of CPC, seeking to implead them as respondents 3 and 4 in the appeal. The aforesaid facts would reveal that the 1st respondent did not implead the respondents 3 and 4 in the suit, only because the particulars of the partners were not furnished during the pendency of the suit. . The Lower Appellate Court, found that to decide the issue of liability of the partners, the presence of the respondents 3 and 4 in the appeal was both just and necessary. It is pertinent to note here that the petitioner himself admitted that the Partnership Firm was an unregistered Firm and therefore, the Lower Appellate Court cannot be faulted for impleading the respondents 3 and 4 as necessary parties in the appeal.

- (8) The Lower Appellate Court, on the question of limitation, found that it was mixed question of law and fact and the same could be decided in the main appeal. This Court finds no infirmity in such finding. Further, the objections that the Appellate Court has no jurisdiction to implead parties, is against the provisions of CPC.
- (9) It is settled law that appeal is a continuation of proceedings and therefore, the Lower Appellate Court is empowered to implead parties at the appellate stage. Under the circumstances, this Court finds absolutely no infirmity or illegality in the order passed by the Lower Appellate Court in IA.No.3/2025.



(10) Accordingly, the Civil Revision Petition is **dismissed, leaving it open to the parties, to agitate the question of limitation before the Lower Appellate Court, at the time of hearing of the appeal.** No costs.

Consequently, connected miscellaneous petition is closed.

16-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

AP

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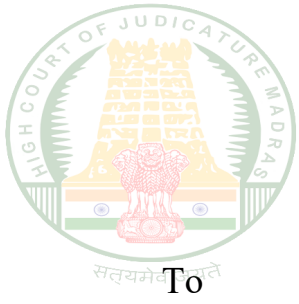
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