

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.12.2016

Coram

The Hon'ble Mr. Justice **S.M.SUBRAMANIAM**

C.R.P.(PD) No.614 of 2014 &
M.P.No.1 of 2014

RRB Energy Limited
rep. By its Managing Director .. Petitioner

Vs

1.Anulatha

2.M/s VESTAS RRB (India) Ltd.,
(Existing Defendant)
rep. By its Managing Director
Chennai.

(R2 is given up. No notice is required
to be sent to them) .. Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India as against the Fair and Decreeal order dated 25.02.2013 made in I.A.No.221 of 2012 in O.S.No.37 of 2006 on the file of the Subordinate Judge, Poonamallee.

For petitioner .. Mr.R.Bharath Kumar

For Respondent .. Mr.V.Lakshmi Narayanan – R1

R2- Given up

ORDER

The present Civil Revision Petition has been filed challenging the order passed in I.A.No.221 of 2012 in O.S.No.37 of 2006, dated 25.02.2013, by the Subordinate Judge, Poonamallee. .

2.The proposed second defendant is the petitioner before this Court and a Suit has been filed by the first respondent/plaintiff for declaration and recovery of possession. The learned counsel for the petitioner contended that during the pendency of the Suit, the name of the second respondent-Company has been changed from M/s.VESTAS RRB (India) Ltd., to M/s RRB Energy Limited.

3.The learned counsel for the petitioner submitted that a document issued by the Government of India, Ministry of Corporate Affairs, shows that a fresh certificate of incorporation consequent upon the change of name of the petitioner-Company was issued on 25th April 2008 and the order issued by the Ministry of Corporate Affairs reads as follows:

"I hereby certify that VESTAS RRB INDIA LIMITED which was originally incorporated on First day of December Nineteen Hundred Eighty Seven under the Companies Act 1956 (No.1 of 1956 as VESTASRRB INDIA LIMITED having duly passed the necessary resolution in terms of Section 21 of the Companies Act, 1956 and the approval of the Central government signified in writing having been accorded thereto under Section 21 of the Companies Act, 1956, read with Government of India, Department of Company Affairs, New Delhi, Notification No.G.S.R.507 (E) dated 24.06.1985 vide SRN A35906122 dated 25.04.2008 the name of the said company is this day changed to RRB ENERGY LIMITED and this Certificate is issued pursuant to Section 23(1) of the said Act.

Given under my hand at Delhi this Twenty Fifth of April Two Thousand Eight.

Therefore, it is contended by the learned counsel for the petitioner that the first respondent/ plaintiff filed an Application in I.A.No.221/12, seeking impleadment of the second respondent as a party in the Suit.

4.The Application was filed under the pretext that M/s.VESTAS RRB (India) Ltd., and M/s RRB Energy Limited are two different companies viz., two different entities. The trial Court allowed the Application on the ground that the petitioner/proposed defendant had not produced any documentary proof to substantiate their contentions in the counter with regard to the change of name of the Company. In the absence of any proof to that effect, the trial Court was unable to

accept the contentions of the petitioner that the name of the Company alone has changed.

5.The learned counsel appearing for the first respondent/ plaintiff vehemently opposed the Application on the ground that the petitioner/defendant had not produced the document viz fresh certificate of incorporation issued by the Government of India, Ministry of Corporate Affairs, before the trial Court, which was produced before this Court and therefore the Trial Court was right in allowing the Application.

6.In the absence of any documentary proof to show that the name of the Company alone has changed and not the change in the pattern, it cannot be expected from the trial Court that the Court should believe the mere statement filed by the petitioner/proposed defendant.

7.Considering the rival arguments advanced both by the learned counsel for the petitioner and the respondents, this Court is of the view that it is true that the petitioner/proposed defendant had not filed the document issued by the Government of India, Ministry of

Corporate Affairs, before the trial Court. But, mere mistake in not producing the document of this nature, cannot be a ground to deny justice to the parties. It is a mistake committed by the defendant, based on which the Application filed by the first respondent/plaintiff was allowed. But the Suit cannot be stalled based on such type of mistakes, the facts regarding the truth is to be considered and the Suit has to be proceeded on the basis of true facts.

8.Hence, this Court is inclined to consider the grounds raised in the Revision Petition and recorded the order issued by the Government of India, Ministry of Corporate Affairs, which was produced before this Court. This Court is of the firm opinion that it is only change of the name of the Company and impleadment is not required and only substitution is sufficient.

9.It is represented by the learned counsel for the first respondent/plaintiff that the first respondent/plaintiff may be permitted to amend the cause title by changing the name of the defendant from M/s.VESTAS RRB (India) Ltd., to M/s RRB Energy Limited.

10. Accordingly, the Civil Revision Petition is allowed and the order passed in I.A.No.221 of 2012 in O.S.No.37 of 2006 dated 25.02.2013, is set aside and the first respondent/plaintiff is permitted to amend the cause title by changing the name of the defendant from M/s.VESTAS RRB (India) Ltd., to M/s RRB Energy Limited. No costs. Consequently connected Miscellaneous Petition is closed.

09.12.2016

rpa

To

The learned Subordinate Judge,
Poonamallee.

**S.M.SUBRAMANIAM, J.
Rpa**

C.R.P.(PD) No.614 of 2013

09.12.2016

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