

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.11.2016

PRONOUNCED ON:12.12.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

S.A.No.312 of 2011

&

MP.No.1 of 2011

The Managing Director,
The Dharmapuri District Co-operative
Milk Producers' Union Limited,
Krishnagiri-635 001.

... Appellant

Vs.

N.Karunagaran

... Respondent

Prayer:- This Memorandum of Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 20.12.2010 passed in A.S.No.4 of 2010 on the file of the Principal Subordinate Judge, Krishnagiri, Krishnagiri District confirming the judgment and decree dated 15.10.2009 passed in O.S.No.293 of 2007 on the file of the District Munsif Court, Krishnagiri.

For Appellant : Mr.C.R.Dasarathan

For Respondent : Mr.J.Hariharan

J U D G M E N T

The defendant in this Second Appeal has impugned the judgment and decree dated 20.12.2010 made in A.S.No.4 of 2010 on the file of the Principal Subordinate Judge, Krishnagiri confirming the judgment and decree dated 15.10.2009 in O.S.No.293 of 2007 on the file of the District Munsif Court, Krishnagiri.

2.The suit has been laid for permanent injunction.

3.It is admitted that the plaintiff was promoted as Assistant Manager(Accounts), with effect from 15.02.1999 and according to the plaintiff though he has been given the above said promotion, in as much as he has not been paid the arrears of salary with effect from that date to which he is entitled to, despite several requests, he has been necessitated to lay the suit for a direction to the defendant to issue proper orders for the payment of pay arrears to which the plaintiff is entitled to. It is stated that by order dated 09.08.2006, the plaintiff has been granted the promotion in the category of the Assistant Manager(Accounts) with effect from 15.02.1999. As regards the case of the plaintiff that he has been promoted as the Assistant Manger (Accounts) with effect from 15.02.1999, the same is not disputed by the defendant. The only point that has been urged is that the sanction order of the

Commissioner is required for giving effect to the promotion given to the plaintiff and the same is pending and further it is also contended that the Civil Court has no jurisdiction to entertain the matter.

4.The Courts below have found that the jurisdiction of the Civil Court is not ousted in the grant of the nature of the relief sought for by the plaintiff, as according to them the bar under Section 156 of the Tamil Nadu Co-operative Societies Act 1983 is not applicable to the present case and hence granted the relief of mandatory injunction sought for by the plaintiff.

5.In this second appeal, the learned counsel for the appellant has contended that the jurisdiction of the Civil Court is barred under Section 156 of the Tamil Nadu Co-Operative Societies Act 1983. However, the above contention has not been accepted. As rightly found by the Courts below, the plaintiff is seeking the relief of mandatory injunction to give effect to the promotion order given to him so as to enable him to receive the enhanced salary due to him as per law.

6.It has not been made out that the relief sought for by the plaintiff would fall within the bar put under Section 156 of the Tamil

Nadu Co-Operative Societies Act 1983. As regards the relief sought for by the plaintiff, it could be seen that the provisions of Section 156 of the Tamil Nadu Co-Operative Societies Act 1983 are not attracted.

7.The Courts below have rightly relied upon the authorities projected by the learned counsel for the plaintiff and upheld that the jurisdiction of the Civil Court is not ousted in such matters. It is not necessary to refer the above said decisions for the disposal of this second appeal. Baring the above aspect, no other substantial question of law is projected in this second appeal.

In conclusion, I hold that no substantial question of law is involved in this Second Appeal. Accordingly, the Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

.12.2016

Index: Yes/No
Internet:Yes/No

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To

- 1.The Subordinate Judge,
Krishnagiri, Krishnagiri District
- 2.The District Munsif Court,
Krishnarigi

T.RAVINDRAN.J.,
Dn

S.A.No.312 of 2011

12.12.2016

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