

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM :

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Civil Revision Petition (NPD) Nos.2650 to 2652 of 2012

R.Srinivasan

.. Petitioner in
all CRPs.

Vs.

M/s.Southern Petrochemical
Industries Corporation Limited,
Principal Office "SPIC HOUSE",
88, Mount Road,
Guindy, Chennai-600 032
Rep. by its Secretary

.. Respondent in
all CRPs

Revisions filed under Article 227 of Constitution of India against
the fair and decretal order dated 17.09.2007 made in C.M.P.Nos.1558,
1559 and 277 of 2006 in A.S.No.138 of 1991 on the file of Additional
District Judge, Fast Track Court-II, Chennai.

For Petitioner : Mr.R.Srinivasan
Party-in-Person

For Respondent : M/s.Rangarajan & Prabhakar

COMMON ORDER

These Civil Revision Petitions are directed against a common order dated 17.9.2007 passed in I.A.Nos.1558, 1559 & 277 of 2006 on the file of Additional District Judge, Fast Track Court No.II, Chennai, dismissing the petitions filed by the petitioner seeking to reject the counter-affidavit filed by the respondent in C.M.P.No.2145 of 2005 and also not to take on record the arguments on the basis of the defective and illegal counter- affidavit filed by the respondent in C.M.P.No.277 of 2006.

2. The facts, which led to the filing of these Civil Revision Petitions is that the petitioner is an employee of the respondent. Challenging the notice of termination dated 01.10.1986 issued by the respondent, the petitioner filed civil suit being O.S.No.9630 of 1986 before the VI Assistant Judge, City Civil Court, Chennai for declaration that the notice of termination issued by the respondent is illegal and the enquiry proceedings initiated against the petitioner is illegal and for consequential injunction restraining the respondent, his officers, servants directly or indirectly from proceeding with any enquiry or action.

3. In the suit, the respondent took out an application being I.A.No.10491 of 1998 raising preliminary issue that the Civil Court had neither jurisdiction to grant declaration nor had powers to deal with matters of dispute between the employer and employee i.e., termination orders etc.

4. By an order dated 31.01.1989, the VI Assistant Judge, City Civil Court, Chennai dismissed the suit on preliminary issue. Aggrieved by the same, the petitioner has filed C.R.P.No.284 of 1990 before this Court. By an order dated 23.02.1990, this Court dismissed the Civil Revision Petition directing to canvass orders dated 31.1.1989 passed by the VI Assistant Judge, City Civil Court, Chennai.

5. Pursuant to the direction of this Court, the petitioner has filed A.S.No.138 of 1991 before the III Additional Judge, City Civil Court, Chennai, wherein the petitioner took out an application being C.M.P.No.1281 of 1991 for subsistence allowance and the same was dismissed by the appellate Court.

6. Pending appeal, the petitioner has filed C.M.P.Nos.277 of 2006; 1558 and 1559 of 2006 seeking to reject the counter-affidavit

filed by the respondent in C.M.P.No.2145 of 2005 and also not to take on record any argument on the basis of the defective counter-affidavit dated 07.04.2006 filed by the respondent in C.M.P.No.277 of 2006. Apart from the aforesaid Civil Miscellaneous Petitions, the petitioner has also filed C.M.P.No.2111 of 2004 seeking amendment of the plaint; C.M.P.No.2112 of 2004 seeking amendment of the grounds of appeal in A.S.No.138 of 1991 and C.M.P.No.2145 of 2005 seeking to reject the counter-affidavits dated 15.03.2005 filed by the respondent.

7. All the Civil Miscellaneous Petitions were taken up together by the learned Additional District Judge, Fast Track Court No.II, Chennai and disposed of by the common order dated 17.09.2007. Upon consideration of the rival submissions, the learned Additional District Judge, dismissed all the six applications. Aggrieved by the common order made in C.M.P.Nos.277, 1558 and 1559 of 2006 dated 17.09.2007, the petitioner has filed these Civil Revision Petitions.

8. I heard Mr.R.Srinivasan, Party-in-Person and Mr.Rangarajan, learned counsel appearing for the respondent in all the civil revision petitions and perused the materials available on record.

9. Mr.R.Srinivasan, petitioner-in-person submitted that the trial Court without discerning the reality had accepted the fraudulent and mischievous contentions of the respondent's side and had in turn blamed the petitioner unjustifiably, without investigating into the question of the root cause and without realising that it is a chain reaction caused by the respondent's malafide intentions and actions. He argued that at the stage of C.M.P.No.2145 of 2005 itself the tendency and propensity of the respondent's side to file false and defective counter affidavits, ought to have been arrested by the trial.

10. The learned counsel for the respondent submitted that upon analysis of the rival submissions and also the settled law, the trial Court has rightly dismissed all the applications, which warrants no interference.

11. The point arises for consideration is whether the trial Court was right in dismissing the applications?

12. According to the petitioner, the respondent has filed defective counter-affidavit in C.M.P.No.2145 of 2005 and the same needs to be rejected. Further, he requested the Court not to take on

record any arguments on the basis of the defective counter-affidavit dated 07.04.2006 in C.M.P.No.277 of 2006 for deciding the other C.M.P.Nos.2111 and 2112 of 2004, 2145 of 2005 and 277 of 2006.

13. On a perusal of the records, I find that aggrieved by the order passed by the III Additional Judge, Chennai in C.M.P.No.1281 of 1901 in A.S.No.138 of 1991, the petitioner has filed C.R.P.No.2761 of 1993 and the same was dismissed by this Court. Thereafter, the petitioner has filed Review Petition No.86 of 1998 seeking to recall the order made in C.R.P.No.2761 of 1993. In the Review Application, the petitioner has took out an application being C.M.P.No.300 of 2008 seeking to exclude the intervening time of 993 days reckoned from 8.1.2001 upto 7th October 2004 in filing the restoration petition. The said Civil Miscellaneous Petition was dismissed by this Court. Aggrieved over the same, the petitioner has filed L.P.A.No.2 of 2009 before this Court.

14. On a perusal of the records, I find that by an order dated 28.9.2016, the First Bench of this Court dismissed the Letters Patent Appeal. The order reads thus:

“The Letters Patent Appeal is directed against the

order dated 22.4.2008 passed by the learned Single Judge in C.M.P.No.300 of 2008 in Review Petition No.86 of 1998 in C.R.P.(NPD) No.2761 of 1993. We are informed that the first appeal (A.S.No.138 of 1991) itself has been dismissed on 25.9.2008, albeit, for non-prosecution. Now the appellant states that the restoration application is pending.

2. Be that as it may, the present proceeding arising from the interlocutory order do not survive, in view of the dismissal of the first appeal, the Letters Patent Appeal is dismissed as infructuous. No costs. Consequently, M.P.Nos.1 and 2 of 2009 are closed."

15. On further perusal of the copy of the judgment in A.S.No.138 of 1991 produced before this Court, I find that A.S.No.138 of 1991 was dismissed for default on 25.9.2008. The judgment reads thus:

"At 6.15 P.M. petitioner memo perused. There is direction of Hon'ble High Court considered order passed in memo to be take as part of this order. The Appellant is not justified by acting further argument no stay. The failure of appellant to further conduct the appeal is not bonafide. Now appellant called absent. Appeal dismissed for default, with costs."

16. In view of the aforesaid narrative, I find that the petitioner is in the habit of filing petition after petition, Civil Revision Petitions and Review Application etc. As rightly held by the trial Court, the petitioner is not interested in pursuing the appeal, which was also dismissed for default.

17. As stated above, the present revisions are arising out of the common order passed in the Civil Miscellaneous Petitions filed in A.S.No.138 of 1991. When the main appeal suit itself was dismissed for default, nothing could be adjudicated in these revisions.

18. During the course of arguments, this Court advised the petitioner to pursue the appeal by filing appropriate application, however, the petitioner pressed this Court to take up the Civil Revision Petitions. The petitioner has also stated that he is ready to challenge the exparte judgment dated 25.9.2008 before the appellate forum.

19. As rightly held by the trial Court, the dispute between the employer and employee is an industrial dispute and if it falls under the Industrial Dispute Act, such dispute must be adjudicated in the forum created under the Industrial Dispute Act only and not before the Civil

Court. The petitioner has not established that the Civil Court has jurisdiction to adjudicate upon the dispute between the employer and employee.

20. I find that there is no valid ground to interfere with the findings of the trial Court and thus, the Civil Revision Petitions are liable to be dismissed.

21. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions, if any, are closed.

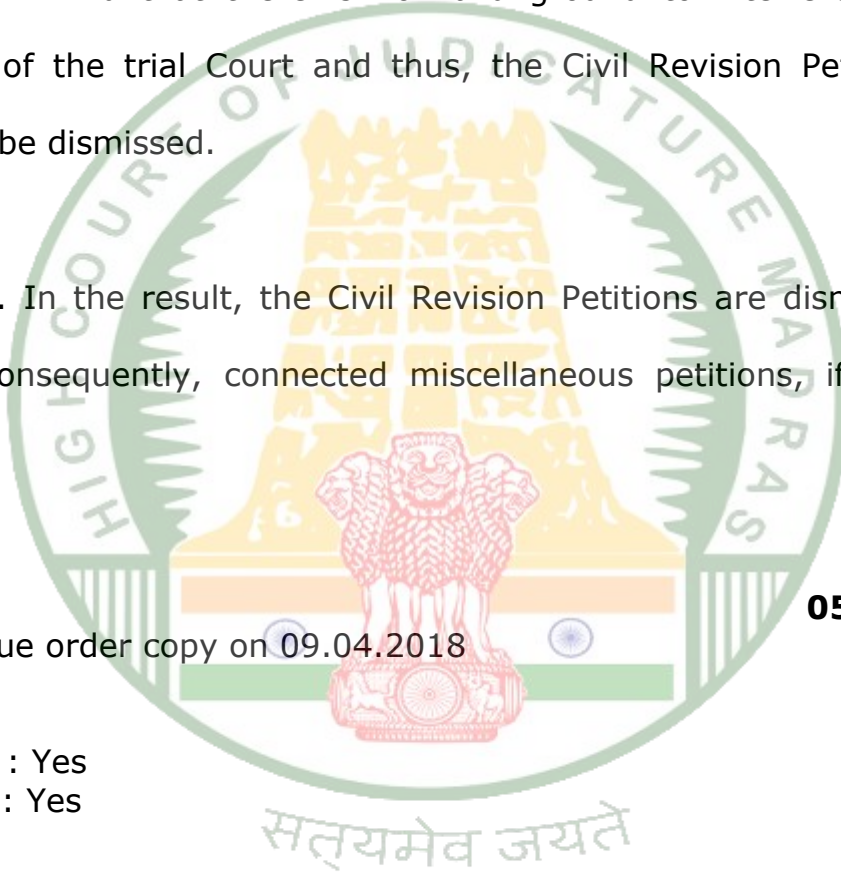
Note: Issue order copy on 09.04.2018
vs

Index : Yes
Internet : Yes

To

The Additional District Judge,
Fast Track Court No.II,
Chennai.

05.01.2017



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M.V.MURALIDARAN,J.

VS



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