

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).Nos.1428 to 1430 of 2018andC.M.P.Nos.7630 to 7632 of 2018

ICICI Bank Limited,
Represented by Sunny Peter,
S/o, Late T.D.Peter,
Christaian,
Authorized Signatory,
Having Office at No.5, Sastri Road,
DAR Complex, 1st Floor,
Ram Nagar,
Coimbatore - 641 009.

... Petitioner in all C.R.Ps

Vs.

M/s.Jaisar Spintex Private Limited,
Represented by its Director
Mr.J.Lakshmanan,
S/o. P.L.Jaganathan,
No.132-N, T.V.Road,
Sankarankovil - 627 756.

सत्यमेव जयते

... Respondent in CRP.No.1428 of 2018

V.Subburaj,
S/o, Venkadasamy Naidu,
Represented by its Director
M/s.Subburaj Textile Mills Private Limited,
Rep by its Director,
Madurai Road,
Sankar Nagar,
Tirunelveli - 627 357.

... Respondent in CRP.No.1429 of 2018

V.Subburaj,
S/o, Venkadasamy Naidu,
M/s.Subburaj Spinning Mills Private Limited,
Rep by its Director,
Madurai Road, Sankar Nagar,
Tirunelveli - 627 357.

... Respondent in CRP.No.1430 of 2018

Common Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India, praying to set aside the Orders dated 02.02.2018 made in I.A.No.1508, 1509 & 1510 of 2017 in O.S.No.297, 298 & 300 of 2008 respectively on the file of the learned Principal Subordinate Judge, Coimbatore.

For Petitioner : Mr.H.Karthik Seshadri
in all C.R.Ps
For Respondents : Mr.Varun Srinivasan
in all C.R.Ps Mr.P.Karikalan
for M/s. N.V.S.Associates

COMMON ORDER

The prayer sought for in the revisions are to set aside the Orders dated 02.02.2018 made in I.A.No.1508, 1509 & 1510 of 2017 in O.S.No.297, 298 & 300 of 2008 respectively on the file of the learned Principal Subordinate Judge, Coimbatore.

2. The respondents herein filed the suits in O.S.No.297, 298 & 300 of 2008 on the file of the learned Principal Subordinate Judge, Coimbatore against the revision petitioner.

3. After filing the suits, the revision petitioner filed written statements. After completion of pleadings, issues were framed, the trial was also commenced, the respondent side evidence was completed and the matter was posted for petitioner side evidence, proof affidavit was also filed at the time of cross examination of the revision petitioner, the revision petitioner filed applications under Order VI Rule 17 of C.P.C. in I.A.No.1508, 1509 & 1510 of 2017 in O.S.No.297, 298 & 300 of 2008 respectively before the trial Court to amend the written statements. The same were resisted by the respondents and the trial Court after hearing both the parties and dismissed the applications on merits.

4. Aggrieved against the said order dated 02.02.2018, the revision petitioner is before this Court by filing the Civil Revision petitions.

5. According to the learned counsel for the petitioner, when he filed the written statements, there was a technical error occurs. Hence, the petitioner filed applications to amend the written statement, which would not change the character and nature of the defence. The respondents will not be prejudiced if the amendments are allowed. The learned counsel for the

petitioner would further submits that the petitioner himself stated in his affidavit, the important point has been omitted. Further, the learned counsel placed his reliance on the decisions of the Hon'ble Supreme Court in the *Civil Appeal No.7251 of 2008 in the case of Vidyabai and Ors. Vs.Padmalatha and Anr.*

6. Heard both sides and perused the materials available on record.

7. On a perusal of the records, it is not in dispute that the respondents filed the suits against the revision petitioner in the year 2008. Subsequently, the revision petitioner filed the written statements and after commencement of the trial, completion of the respondent side evidence, when the revision petitioner filed the proof affidavit and has not appeared for cross examination for several hearings. At that time, the revision petitioner filed an application for amending the written statements.

8. Though the learned counsel for the petitioner would submit that there is no prejudice would be caused to the respondents, a bare reading of the Proviso to Order VI Rule 17 of C.P.C shows that:

"17. Provided that no application for amendment shall

be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of the due diligence, the party could not have raised the matter before the commencement of trial."

It is seen from the above said provision that after commencement of the trial, allowing the application to amend the pleadings of either party, the Court has to see due diligence, they could not brought the mistake in the earlier occasion. Even then, it is up to the discretionary power of the Court to accept or not. This Court while exercising the jurisdiction of revision, not find any arbitrariness in the order passed by the trial Court while exercising the discretion. If it is not arbitrary then this Court cannot interfere with the order passed by the trial Court.

9. In this case, in the affidavit there is no valid reasons given. Even otherwise also since the petitioner has stated that typographical error has been committed in the written statements, this can be clarified by way of filing the additional pleadings or during the course of cross examination of the witnesses. Under these circumstances, the trial Court has stated that without any valid reasons, this application has been filed belatedly to delay the

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proceedings and dismissed the application. It is very clear that it is the typographical error crept in the written statement and the same can be clarified by producing proper documentary evidence during the course of trial.

10. In view of the above, this Court finds there is no illegality or irregularity in the order passed by the trial Court and finds no merits in the revision petition.

11. In the result, the Civil Revision petitions are dismissed. Consequently, the connected Miscellaneous petitions are closed. No costs.

14.06.2018

Index:Yes/No

Speaking order / Non speaking order

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To

The Principal Subordinate Judge,
Coimbatore.

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