

7IN THE HIGH COURT OF JUDICATURE OF MADRAS

Dated : 20.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Second Appeal No.361 of 2009
and
M.P.No.1 of 2009

M/s.Kumaran Textiles,
rep.by its Partner,
D.Vijayasekar ...Appellant

Vs.

- 1.Tamil Nadu Electricity Board,
by its Superintending Engineer,
Udumalpet.
- 2.The Superintending Engineer,
TNEB, Udumalpet.
- 3.The Executive Engineer(O & M),
TNEB, Udumalpet.
- 4.The Assistant Executive Engineer,
TNEB, Udumalpet. Respondents

Second Appeal filed against the judgement and decree dated 06.09.2008, passed by the Subordinate Judge, Udumalpet, in A.S.No.7 of 2007, setting aside the judgement and decree dated 25.08.2006, passed by the District Munsif, Udumalpet, in O.S.No.25 of 2002.

For Appellant :: Ms.Kaavya Silambanan
For respondents :: Mr.V.Viswanathan

JUDGMENT

At the hearing, the learned counsel appearing for the appellant would submit that the parties have settled the matter amicably between them and he has also filed a memo dated 19.12.2019 to the said effect. The contents of the memo are extracted hereunder:

"Memo filed on behalf of the Appellant

The Appellant above named begs to state as follows:

1.The Respondent Electricity Board made a demand against the appellant for a sum of Rs.11,42,613/-. Challenging the same the Appellant filed O.S.No.25 of 2002 before the District Munsif Court, Udumalpet and not to disconnect the electricity power supply to the Appellant Mill. The said suit was decreed in favour of the Appellant/Plaintiff on 25.08.2006 in O.S.No.25 of 2002. Aggrieved by the same Respondents/Defendants preferred A.S.No.7 of 2007 before the Subordinate Judge, Udumalpet and the said A.S. was allowed on 6.9.2008 setting aside the decree and judgement in O.S.No.25 of 2002. Aggrieved by the reversing judgement, the Appellant herein preferred S.A.No.361 of 2009 before this Hon'ble High Court.

2.During the pendency of the S.A.the Tamil Nadu Electricity Board (TANGEDCO) had introduced the waiver of BPSC Scheme to benefit many such issues. The Appellant herein had also requested for waiver of BPSC in order to give a peaceful quietus to the issue. During the pendency of the S.A. the Appellant had on various occasions paid a total amount of Rs.16,50,000/- to the Electricity Department in this matter pursuant to the orders of the Hon'ble High Court. The matter was also referred to Lok Adalat.

3.The Electricity Department - TANGEDCO had accepted the request for waiver of BPSC on 08.04.2019 and thereafter, vide letter dated 16.09.2019 had directed the Appellant that the remittance of the principal amount of Rs.11,42,613/- should be paid to the electricity department (TANGEDCO) and the court case S.A.No.361 of 2009 pending before the Hon'ble High Court madras should be withdrawn.

4.As the Appellant had deposited with the TANGEDCO a sum of Rs.6,50,000/- as against the condition of payment of Rs.11,42,613/- the Appellant has fulfilled the condition of remittance of principal amount and has to withdraw the S.A.No.361 of 2009. The Appellant

is willing to take separate steps with TANGEDCO to request for refund of the excess remittance of Rs.5,07,387/- made by the Appellant.

5.In view of the above, this Hon'ble High Court may be pleaded to record the above Memo and dispose the S.A.and thus render justice."

2.In view of the above settlement of the dispute between the appellant and the respondents, the learned counsel for the appellant seeks permission of this Court to withdraw the Second Appeal.

3.Permission is granted. The Second Appeal is dismissed as withdrawn. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar (CS-III)

// True Copy//

Sub Assistant Registrar

Msk

To

1.The Subordinate Judge, Udumalpet.

2.The District Munsif, Udumalpet.

+1cc to Mr.Silambanan, Advocate, SR.No.106010.

S.A.No.361 of 2009

BP (CO)
CSR: 14.02.2020

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