

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2019

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.8654 of 2019 and
W.M.P.No.9183 of 2019

The Management,
Anaimalai Primary Agricultural
Co-operative Credit Society,
Anaimalai 642 104.

... Petitioner

Vs.

T.Anandhan

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the fair and decreetal order dated 27.12.2018 made in I.A.No.318 of 2018 in C.P.No.38 of 2014 on the file of the Additional Labour Court, Coimbatore and quash the same and direct the Hon'ble Labour Court to take the proof affidavit on record.

For Petitioner : Mr.S.Mukunth for
M/s.Sarvabhauman Associates

O R D E R

The present writ petition has been filed against the fair and decreetal order dated 27.12.2018 made in I.A.No.318 of 2018 in C.P.No.38 of 2014 on the file of the Additional Labour Court, Coimbatore and quash the same and direct the Hon'ble Labour Court to take the proof affidavit on record.

2. The case of the petitioner is as follows:-

(i) The respondent workman had approached the Labour Court by filing a computation petition for claiming certain benefits. In the proceedings before the Labour Court, an Interim Application was filed in I.A.No.233 of 2018, to amend the counter statement which according to the Management, was not properly filed. According to them, an erstwhile Secretary has miscalculated the amounts by not perusing the accounts book properly. A further application was also moved to re-open the case for trial on the Management side. Thereafter, the evidence on the management side was proceeded with and certain documents were marked.

(ii) However, in the meanwhile, the Labour Court had dismissed the petition filed by the Management to amend the counter statement. Thereafter, the Management had filed a detailed proof affidavit with correct facts and circumstances of the case to prove their case. At this, the respondent workman moved an application in I.A.No.318 of 2018, to reject the proof affidavit.

(iii) The Labour Court after adverting to various materials and also taking note of the submission made on behalf of the workman and the counter statement and the proof affidavit filed by the Management, accepted the plea of the workman and rejected the proof affidavit filed by the Management by allowing the I.A.No.318 of 2018. As against the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner Management would submit that the earlier Secretary has filed the counter statement with wrong calculation without perusing the accounts record and therefore, it became necessary to the Management to file proof affidavit in order to prove certain factual issues. The defence of the Management would be severely affected, if the proof affidavit has not been filed bringing out the correct facts of the case.

4. This Court does not find any merit in the grievance of the petitioner Management, since the Labour Court has given a clear finding that the proof affidavit which was filed by the Management contained several contradictions with regard to the facts as contained in the counter statement which was filed earlier on behalf of the Management. Therefore, it is not open to the petitioner Management to file a different proof affidavit in the same proceedings before the Labour Court. The Labour Court has correctly held that such proof affidavit cannot be allowed and therefore, the same was rejected by allowing the I.A.No.318 of 2018.

5. This Court does not find any infirmity in the order passed by the Labour Court and the findings rendered by it. Unless such finding appeared to be legally unsustainable or perverse, this Court cannot interfere with the same exercising its jurisdiction under Article 226 of the Constitution of India.

6. For the above said reasons, this Court finds no merits in the present writ petition and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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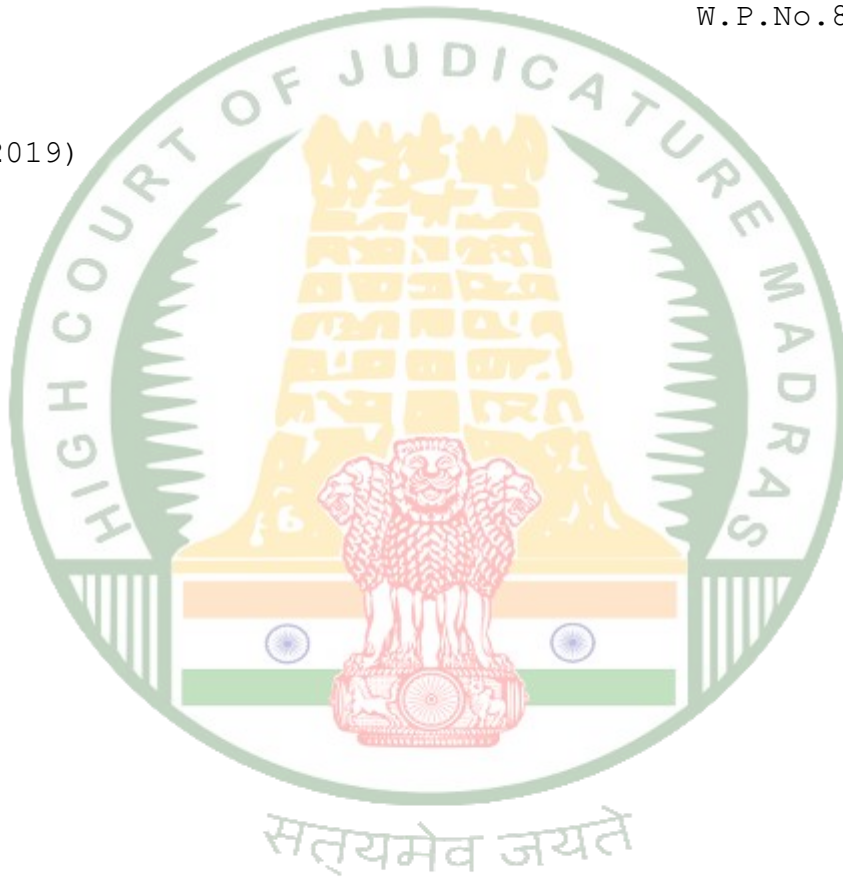
To

The Additional Labour Court,
Coimbatore.

+lcc to Mr.Sarvabhauman Associates, Advocate, S.R.No. 29673

W.P.No.8654 of 2019

SSI (CO)
GN(22/05/2019)



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