

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (NPD) No.2756 of 2013

The Tamilnadu Cements Corporation Ltd.,
Ariyalur Works,
Ariyalur
Rep. By its Deputy General Manager ... Petitioner

Vs.

Mr.M.Subramanian .. Respondent

PRAYER: Civil Revision Petition filed under section 115 of Code of Civil Procedure to set aside the judgment and decree in A.S.No.53 of 2008 dated 09.08.2010 on the file of the Subordinate Judge, Ariyalur reversing the judgment and decree in O.S.No.373 of 2006 dated 03.04.2008 on the file of the Principal District Munsif, Ariyalur.

For Petitioner : Mr.A.Sivaji

For Respondent : Mr.P.Valliappan

ORDER

This revision has been filed as against the judgment of the first appellate Court reversing the judgment of the trial Court decreeing the suit for recovery of excess amount said to have been paid to the defendant.

2. The facts leading to filing of this revision is as follows :

The defendant was engaged by the plaintiff as a contract employee on 31.08.2005. His contract came to end and at that time, the plaintiff mistakenly paid a sum of Rs.20,635/-. Hence, the suit has been laid for recovery of that amount.

3. The defendant disputed the excess amount received by him. He being a contract labourer, he was not paid time rate wages but was paid piece rate wages. Hence, disputed the claim of the plaintiff.

4. The trial Court has decreed the suit. However, the first appellate Court taking note of the fact that when there is no mistake on the part of the employee, the amount of Rs.20,635/- cannot be recoverable from the respondent, dismissed the appeal. As against which, the present revision came to be filed.

5. Heard the learned counsel for the revision petitioner and the learned counsel for the respondent and perused the entire materials available on record.

6. It is well settled that any amount paid excessively to the employees of Grade 'C' or 'D' cannot be recovered. In view of the same, this Court do not find any merits in this revision, after all, the alleged excess amount is only Rs.20,635/-. Further, the defendant is only a contract labourer, who was

engaged in unloading the cements in the revision petitioner company and his service has also been terminated in the year 2005. Therefore, when there is no fault on the employee, such amount cannot be recovered.

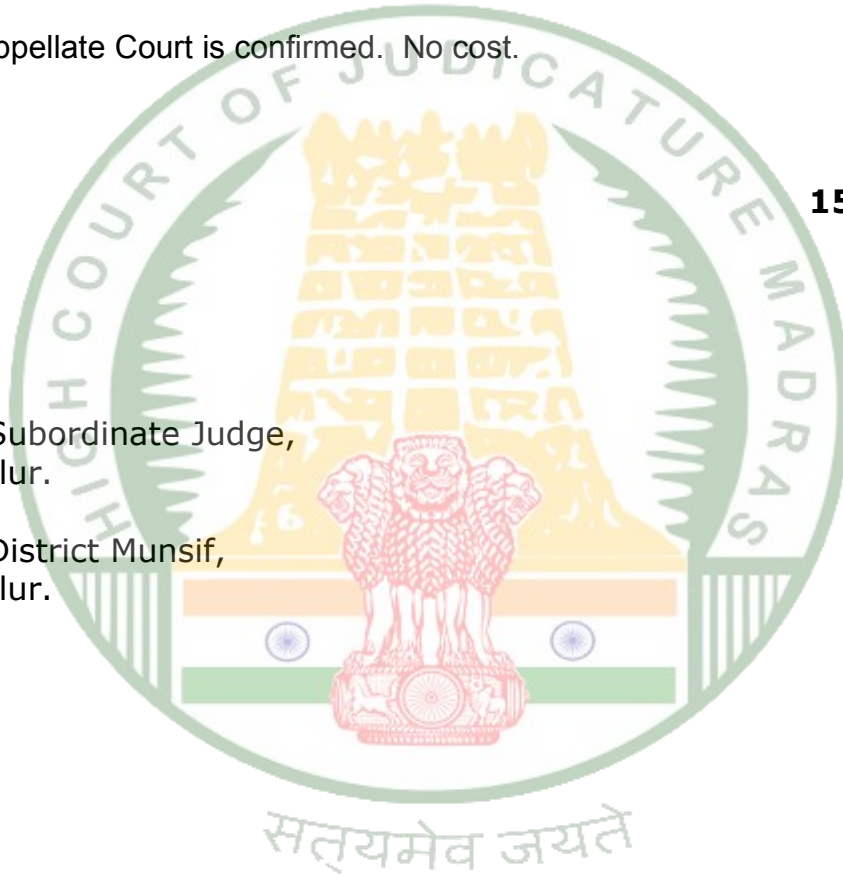
7. Accordingly, this Civil Revision Petition is dismissed and the Order of the first appellate Court is confirmed. No cost.

15.02.2019

vrc

To

1. The Subordinate Judge,
Ariyalur.
2. The District Munsif,
Ariyalur.



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N.SATHISH KUMAR, J.

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