

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.Nos.3527 and 3610 of 2019 and C.M.P.No.23383 of 2019

M/s.Telace Industrial Services
Rep.by its Sole Proprietor
Mr.K.Balaboopathy
3/88, Mount Poonamallee Road
Chennai - 600089

... Petitioner in both the CRPs

-Vs-

- 1.Tamil Nadu Electricity Board
Rep.by the Executive Engineer
O&M, Guindy, CEDC South
Chennai – 600 078.
- 2.The Superintending Engineer
CEDC South, Chennai – 600 078.

... Respondents in both the CRPs

Prayer in CRP No.3527 of 2019: Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 12.09.2019 passed in I.A.No.242 of 2018 in O.S.No.7188 of 2015 on the file of the XVI Additional Judge, City Civil Court, Chennai.

Prayer in CRP No.3610 of 2019: Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 12.09.2019 passed in I.A.No. 1 of 2019 in O.S.No.7188 of 2015 on the file of the XVI Additional Judge, City Civil Court, Chennai.

For Petitioner in both CRPs : Mr.P.Subba Reddy

ORDER

This revision has been filed as against the fair and decreetal order dated 12.09.2019 passed in I.A.No.242 of 2018 and I.A.No.1 of 2019 in O.S.No.7188 of 2015 on the file of the XVI Assistant City Civil Court, Chennai.

2. Before the trial Court, the revision petitioner was the plaintiff, who filed the suit for declaration and consequential injunction against the respondents / defendants. The declaration sought for by the plaintiff / revision petitioner was that the demand made by the respondents on the ground of theft of electricity was to be declared as null and void. The said suit was originally laid before this Court in C.S.No.3 of 2002 and was subsequently transferred to the file of the City Civil Court, where it was renumbered as O.S.No.7188 of 2015. After completion of pleadings, trial was also completed and when the suit was posted for arguments, at this stage these two applications were filed, one is to reopen the plaintiff side further evidence and another one is to call for the records in C.C.No.189 of 2002 on the file of the Judicial Magistrate No.II at Poonamallee and mark those documents.

3. The said two applications were rejected by the Court below through the respective impugned orders, as against which these respective revision petitions have been filed.

4. Heard the learned counsel for the petitioner, who would submit that, C.C.No.189 of 2002 is a criminal case, which had been filed against the revision petitioner for the alleged theft of electricity and at that time of filing the suit for declaration as set out above, the said C.C., was pending. However, subsequently the C.C., came to an end by acquittal. Therefore, the said order of acquittal passed

by the Criminal Court, if it is produced before the Civil Court, ie., in the present suit, it will be helpful to prove the case of the plaintiff.

5. In this context, it is the further submission of the learned counsel for the revision petitioner that, since the date of such acquittal is not known to the revision petitioner and also the documents pertaining to the said C.C., are also not available with the revision petitioner, the revision petitioner had chosen to file the above applications before the Court below to call for the entire records of C.C.No.189 of 2002 from the concerned Magistrate Court.

6. I have considered the said submissions made by the learned counsel for the revision petitioner and have perused the materials placed before this Court.

7. The suit is of the year 2002, which was subsequently transferred and renumbered, where pleadings were completed and trial is over and the suit is posted for arguments. The C.C.No.189 is of the year 2002 and as per the oral submissions made by the learned counsel for the revision petitioner, the C.C. was disposed of long back by an order of acquittal.

8. When that being so, absolutely there is no prohibition or impediment for the revision petitioner to apply for the certified copy of the Criminal Court order before the concerned Court. However, no such attempt seems to have been made

by the revision petitioner. In fact, the revision petitioner, having waited till the last minute, allowed the trial Court to complete the trial and when the case is posted for arguments, at this stage they have come forward with the present applications, that too, bereft of facts as to when such an order of acquittal was passed by the concerned Magistrate Court.

9. Therefore, considering all these aspects in proper perspective, the learned Judge has rejected these applications, stating that these applications were filed at the fag end without any particulars and therefore, the same can very well be considered as applications to protract the proceedings unnecessarily. The said reasoning given by the Court below in the given facts and circumstances of the case is justifiable and therefore, this Court feels that there is no infirmity or perversity in the orders impugned herein.

10. In the result, these Civil Revision Petitions fail and the same are dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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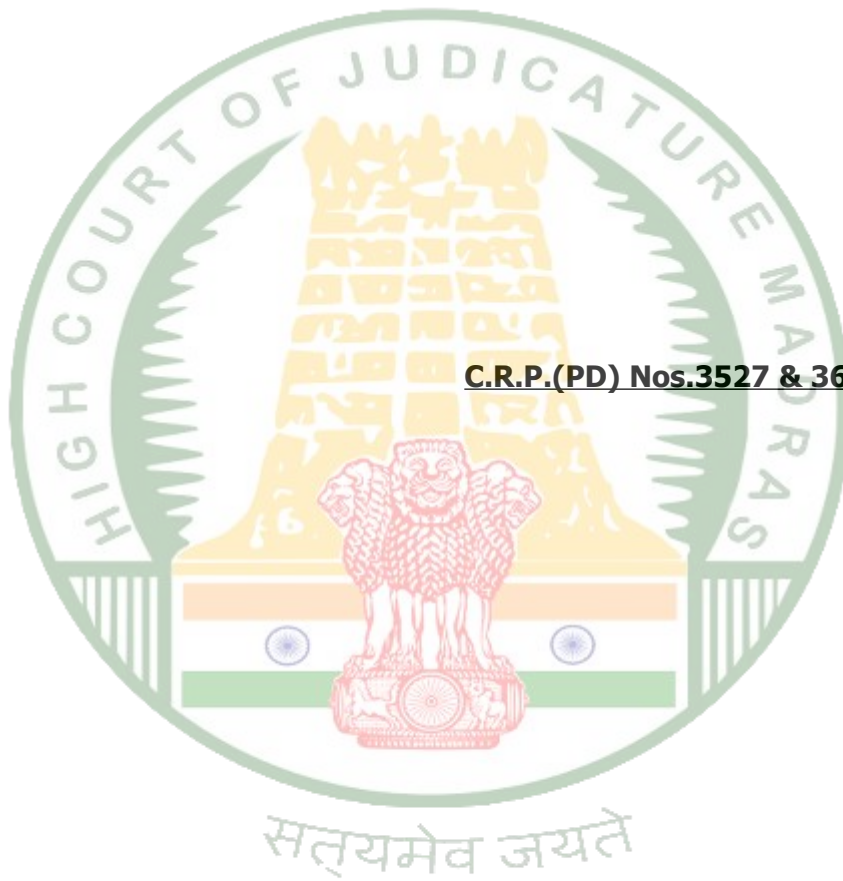
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To

The XVI Additional Judge, City Civil Court, Chennai.

R. SURESH KUMAR, J.

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