



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Seventh day of March Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CMP (MD) No.2304 of 2019
IN
AS (MD) No.106 of 2005

ANDREW MATHEW,

... PETITIONER/APPELLANT

Vs

MADURA COATS LIMITED,
PAPAVANASAM MILLS POST, AMBASAMUDRAM TALUK,
TIRUNELVELI DISTRICT,
THROUGH ITS MANAGER,
ENGINEERING SERVICE S.BALAKRISHNAN.

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to receive the copy of chief examination of PW1 in the form of proof affidavit and ordered to form and part of the main court record in A.S.No.106/2005 and thus render justice.

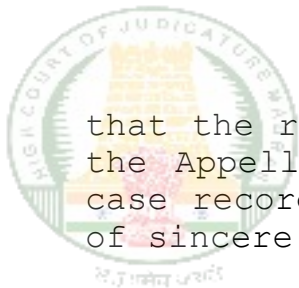
Prayer in AS (MD). 106/ 2005 :

The Appellant above named begs to prefer this Memorandum of Regular Appeal against the Judgment and Decree passed in OS.53/2004, on the file of the Addl.District Judge, FTC No.1, Tirunelveli dated 29.06.2005.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.M.KARTHIKEYAVENKITACHALAPA, Advocate for the petitioner and of Mr.S.KUMAR, Advocate for the Respondents the court made the following order:-

It appears that on 06.02.2019, when the appeal was taken up for hearing, it was identified that the proof affidavit filed by PW.1 before the trial Court, dated 02.09.2004 is misplaced. Subsequently, this Court directed the learned Additional District Judge, Fast Track Court No.I, Tirunelveli, which is the trial Court, to produce the original proof affidavit filed by PW.1.

2. In response to the letter sent by this Court, the learned Additional District Judge, Fast Track Court No.I, Tirunelveli sent a letter to this Court, dated 19.02.2019 stating



that the records pertaining to O.S.No.53 of 2004 was transmitted to the Appellate Court as on 17.07.2006. Further, he stated that the case records pertaining to the above suit is not available, despite of sincere efforts to trace out the same.

3. Hence, without any alternate, the contents of the letter submitted by the learned Additional District Judge was informed to the learned counsel appearing for either side.

4. Under such circumstances, the learned counsel for the appellant filed a petition in C.M.P.(MD).No.2304 of 2019 for reconstructing the proof affidavit of PW.1 filed before the trial Court. The copy of the proof affidavit of PW.1 has also been enclosed with this petition.

5. Today, when the appeal is taken up for hearing, the learned counsel appearing for the respondent is present and made an endorsement that he is not having any objection to allow the application filed by the appellant for the purpose of reconstructing the proof affidavit filed by PW.1. Accordingly, C.M.P.(MD).No.2304 of 2019 in A.S.(MD).No.106 of 2005 stands allowed.

6. Call the main appeal on 19.03.2019 for both side arguments.

sd/-
07/03/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE ADDITIONAL DISTRICT JUDGE,
FAST TRACK COURT, NO.1,
TIRUNELVELI.

PS/VR/SAR-2/15.03.2019/2P/2C

ORDER
IN
CMP(MD) No.2304 of 2019
IN
AS(MD) No.106 of 2005
Date :07/03/2019