



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2019

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD) No.268 of 2019

and

C.M.P. (MD) No.1320 of 2019

State Industries Promotion Corporation,
of Tamil Nadu Ltd., represented
by its Principal Secretary / Chairman
and Managing Director.

... Petitioner

Vs.

1.M/s, Valla Castings (P) limited,
No.36, Nachiarpalayam,
Woraiyur, Trichy-620 003.

2.S.Sarangapani
3.K.Janakiraman
4.Subha Somu
5.V.Vincent
6.K.Rengasamy

7.The Manager,
Canara Bank,
Recovery and Legal Section,
Circle Office,
No.1, Royal Road,
Trichy-620 001.

..Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 03.11.2018 passed in I.A.No.307 of 2018 in SFCOP No.2 of 2014 on the file of the IInd Additional District Judge, Tiruchirappalli and consequently allow the same in the interest of justice, equity and good conscience.

For Petitioner : Mr.N.Adithya Vijayalayan

O R D E R

This civil revision petition has been preferred against the fair and decretal order passed in I.A.307 of 2018 in SFCOP No.2 of 2014 by the II Additional District Judge, Tiruchirappalli.



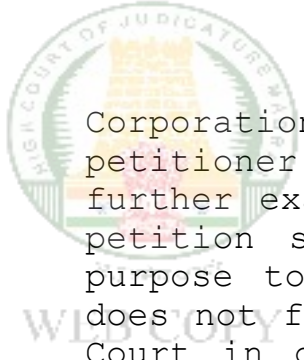
2. I.A.No.307 of 2018 was filed by the petitioner Corporation for issuing the evidence of T.Pitchai Srinivasan, who was the then Assistant Manager. The fourth respondent has stated in the counter statement filed in the said IA that already the said T.Pitchai Srinivasan was examined as P.W.1 and cross examined in part. Hence, the further substantial evidence has to be recorded only by way of further cross examination of the said T.Pitchai Srinivasan. Hence, the petition was filed by the petitioner stating that the said T.Pitchai Srinivasan was retired from service and he cannot once again recalled and examined before the Court and hence, necessary notice has to be issued. The trial Court observed the fact that already the said T.Pitchai Srinivasan was examined as P.W.1 on 19.12.2016 and the case was adjourned to 17.03.2017 for cross examination and finally it was posted for further examination on 07.12.2017. It is further stated that P.W.1 was closed on 06.10.2017 and when the case was posted for further petitioner side evidence, the fourth defendant filed a petition to recall P.W.1 for further cross examination. The said petition was allowed on payment of costs of Rs.2,500/- and now the case is pending for cross examination of P.W.1.

3. The petitioner at this juncture filed a petition to issue the evidence of P.W.1. In the said affidavit the petitioner herein has stated that the said T.Pitchai Srinivasan retired from service of the corporation on 31.05.2018, hence, he could not be cross examined and the petition is filed to issue eschew the evidence of T.Pitchai Srinivasan, who was examined as P.W.1.

4. The trial Court after considering the submissions and the material evidences has given a finding that since the said T.Pitchai Srinivasan retired in the year 2018, the petitioner is estopped from eschew the oral evidence of P.W.1. Accordingly the said petition filed by the revision petitioner is dismissed. Aggrieved against the same, the petitioner has preferred the present civil revision petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. Admittedly, T.Pitchai Srinivasan, who was working as the Assistant Manager, was examined as P.W.1 and his evidence was also closed by the trial Court. The petition filed by the fourth defendant for the purpose of cross examining P.W.1 came to be allowed. In the meanwhile, the said T.Pitchai Srinivasan, who was already examined as P.W.1, retired from service and as he cannot be cross examined, the petitioner seeks that his evidence has to be issued because in the place of said T.Pitchai Srinivasan now ~~some other person~~ has occupied. The petitioner again filed such petition to issue the evidence of P.W.1, who was examined as P.W.1 in the capacity of Assistant Manager of the petitioner



Corporation. But no valid reason has been stated by the petitioner herein to recall the said T.Pitchai Srinivasan for further examination as P.W.1. Without any valid reason, the said petition seeking the evidence of P.W.1 was filed only for the purpose to cause delay of the proceedings and hence, this Court does not find any reason to interfere with the order of the trial Court in dismissing the petition seeking the evidence of P.W.1. Accordingly, this civil revision petition is dismissed. However, the petitioner is directed to cooperate with the trial for further proceedings. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To

The IInd Additional District Judge, Tiruchirappalli

+1 CC to M/s.N.ADITHYAVIJAYALAYAN, Advocate (SR-46951[F] dated 14/02/2019)

TA

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