

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.03.2021
CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
Crl.O.P.No.3008 of 2021
and
Crl.M.P.No.1689 of 2021

Pepsico India Holdings Private Limited,
Represented by its Letter of Authority
Mr.N.Smithun

.. Petitioner

Vs.

1. M/s Pooma Distributors
Represented by its Partner
Mr.P.Siva Kumar
S.F.No.229/4, Avinashi Road,
Near IOB Bank, Karumathampatti,
Coimbatore - 641 059.

2. Mr.P.Sivakumar
Partner, M/s Pooma Distributors

3. Mr.S.Senthil Kumar
Partner, M/s Pooma Distributors

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records and set aside the order passed by the learned Judicial Magistrate, Fast Track Court No.1 @ Magistrate Level, Coimbatore in C.M.P.No.3840 of 2020 dated 30.12.2020 in C.C.No.119 of 2015.

For Petitioner : Mr.M.Kandasamy

For Respondents : No appearance

ORDER

This petition has been filed against the order passed by the Court below dismissing the application filed by the petitioner to substitute the representative of the petitioner Company.

2.The petitioner Company filed a complaint under Section 138 of the Negotiable Instruments Act against the respondents. The petitioner Company was represented by one Mr.N.Smithun who was the Area Sales Manager of the Company. He was in fact examined as PW-1.This officer resigned from the petitioner Company and hence an application was filed to replace one Mr.Abishek as the authorized representative of the petitioner Company. This application came to be dismissed by the Court below on the ground that the complaint has been pending for a

long time and adjournments are sought for repeatedly.

3.Heard learned counsel appearing on behalf of the petitioner. The respondents have been served with notice and their names have also been printed in the cause list. There is no representation on the side of the respondents either in person or through counsel.

4.In the considered view of this Court, the petitioner is a legal entity which has to be represented by a human agency. Initially, the petitioner Company was represented by a particular officer and since he has resigned, another officer has been authorized to represent the Company. If the application for substitution of authorized representative is dismissed by the Court below, the petitioner Company will go unrepresented in the proceedings. The Court below ought to have taken this vital factor into consideration.

5.In view of the above,the order passed by the Court below in CMP No.3840 of 2020, dated 30.12.2020 is hereby set aside. The Court below shall permit the substitution of the authorized representative to represent the petitioner Company.

6.This criminal original petition is allowed with a direction to the Court below to complete the proceedings in C.C.No.119 of 2015, within a period of two months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS III)

/TRUE COPY/

Sub-Assistant Registrar

सत्यमेव जयते

ssr

To

1. The Judicial Magistrate,
Fast Track Court No.1 @ Magistrate Level,
Coimbatore.

2. The Public Prosecutor,
High Court, Madras.

+1CC TO MR.M.KANDASAMY, ADVOCATE, SR.NO. 16842

Cr1.O.P.No.3008 of 2021

PMK (CO)

KN 20.04.2021

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