



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos. 1931 & 1933 of 2021

and

C.M.P. Nos. 10410 of 10412 of 2021

1. T. Manikandan
2. P. Kandasamy
- 3.C. Kumar
4. Kandasamy
5. C. Sundaram
6. Thukka Gounder

..Appellants in both CMAs

Vs.

The Competent Authority,
District Revenue Officer,
Namakkal

..Respondent in both CMAs

Common Prayer: Civil Miscellaneous Appeals filed under Section 104 and Order XLIII Rule 1 of CPC read with Section 11 of TNPID Act, 1997 to set aside the common order dated 07/04/2021, passed in I.A. Nos. 5 and 6 of 2021 respectively in O.A. No. 33 of 2015, on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.

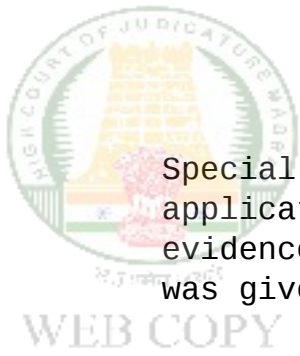
For Appellants in both CMAs : Mr.S. Diwakar

For Respondent in both CMAs : Dr. S. Suriya
Government Advocate

JUDGMENT

(This case was heard through Video Conferencing)

These appeals have been filed challenging the common order dated 07.04.2021 passed by the learned Special Judge,



Special Court under TNPID Act, Coimbatore under which, the applications filed by the Appellants to reopen and recall PW1's evidence were dismissed on the ground that no sufficient reason was given by the Appellants for allowing the applications.

2. As seen from the impugned order, O.A. No. 33 of 2015 was posted for chief examination of PW1 on 12.02.2021. The Chief examination of PW1 was completed on that date. However, the Appellants who are the respondents 4 to 9 in O.A. No. 33 of 2015 sought further time to cross examine PW1 on the ground that the Counsel for the Appellants mother's ceremony was scheduled to take place on the very same date. However, under the impugned order, the learned Special Judge, Special Court under TNPID Act, Coimbatore has rejected the said request and closed the evidence of PW1 on the very same date i.e., on 12.02.2021 itself. Thereafter, the Appellants have filed I.A. Nos. 5 and 6 of 2021 before the learned Special Judge, Special Court under TNPID Act, Coimbatore to reopen and recall PW1's evidence giving the very same reason. However, under the impugned order dated 07.04.2021, learned Special Judge, Special Court under TNPID Act, Coimbatore has dismissed the applications on the ground that no sufficient reasons have been given by the Appellants for reopening and recalling PW1's evidence.

3. Admittedly, the Appellants have sought for time to cross examine PW.1 on 12.02.2021 and as seen from the impugned order, only on 12.02.2021, when the chief examination of PW1 was completed. In the Affidavit filed in support of the applications I.A. Nos. 5 and 6 of 2021, the Appellants have pleaded that only due to the ceremony of the mother of the Appellants' counsel that took place on 12.02.2021, the counsel had sought further time to cross examine PW1. However, even without giving sufficient opportunity to the Appellants, the learned Special Judge, Special Court under TNPID Act, Coimbatore has closed the evidence of PW1 on 12.02.2021 itself.

4. The reasons given by the Appellants in the affidavit filed in support of the application Nos. 5 and 6 of 2021 are satisfactory. However, the Tribunal has erroneously held that the said reasons are not sufficient for the purpose of reopening and recalling PW1's evidence. This Court is of the considered view that since the Appellants have sought only one adjournment for cross examination of the PW1's evidence and sufficient



reasons have been given by them in the affidavit filed in support of the applications I.A.Nos.5 and 6 of 2021, the learned Special Judge, Special Court under TNPID Act, Coimbatore ought to have allowed those applications, but instead has erroneously dismissed the same.

5. For the foregoing reasons, the impugned common order dated 07.04.2021 passed in I.A. Nos. 5 and 6 of 2021 in O.A. No. 33 of 2015 pending on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore will have to be necessarily set aside. Accordingly, the same is set aside by this Court and this Court directs the learned Special Judge, Special Court under TNPID Act, Coimbatore to permit the Appellants to cross examine PW1 and after completion of oral evidence on both the sides, dispose of O.A. No. 33 of 2015 within a period of two months from the date of completion of the oral evidence on both sides.

6. With the aforesaid direction, these Appeals are allowed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

ab/nl

To

The Special Judge,
Special Court under TNPID Act,
Coimbatore

+2CCs to Mr.R.Baskar, Advocate, SR.No. 54453

+1CC to The Government Pleader, SR.No. 54690

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and

C.M.P. Nos. 10410 of 10412 of 2021

NR(CO)

B.VC (08/11/2021)