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C.R.P.No.1263 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.No.1263 of 2015
and M.P.No.1 of 2015

L.Sivapatham

.. Petitioner

Vs.

1. The Special Officer,
M/s Frontier Industrial Co-operative
Tea Factory Limited,
Erumad, Konachal Post,
The Nilgiris-643239.

2. J.Christoper Dhas,
Industrial Co-operative Officer/
Arbitrator, Arbitrator of Industrial
Co-operative, District Industrial Centre,
Udhagamandalam,
The Nilgiris.

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Judgment and Decree dated 01.10.2001 passed by the learned District Judge and Appellate Authority of the Nilgiris, Udhagamandalam in C.M.A.No.49 of 1999 concurring the Arbitration Award dated 20.11.1998 passed by the Arbitrator/second respondent in Arbitration Claim Petition 21/96-97.

For Petitioner	: Mr.L.Mouli
For R1	: Mr.A.S.Balaji
For R2	: Notice served



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ORDER

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This Civil Revision Petition has been filed to set aside the Judgment and Decree dated 01.10.2001 passed by the learned District Judge and Appellate Authority of the Nilgiris, Udthagamandalam in C.M.A.No.49 of 1999 concurring the Arbitration Award dated 20.11.1998 passed by the Arbitrator/second respondent in Arbitration Claim Petition 21/96-97, thereby dismissed the appeal filed as against the Arbitration Award.

2. The first respondent herein initiated arbitration proceedings as against the petitioner herein on the ground that the petitioner was an employee of the first respondent herein and he had access and chance to handle the basic records and cash. He was prudent to exploit the situation and master minded the defaults to achieve his personal means. He manipulated the accounts to grab public funds worth about Rs.2,37,822.95/-. While the defaults covers a period since January 1991 to December 1994, in the leaf advance payments and leaf cost payment, misappropriation centres around the middle of the year 1993 especially in the month of June 1993 involving heavy amount. Therefore, the first respondent initiated arbitration proceedings with the relevant documents and registers. However, the petitioner was absent before the Arbitrator and as such he was set



exparte and Arbitrator passed an Award. Aggrieved by the same, the petitioner filed an appeal in C.M.A.No.40 of 1995 on the ground that he was not given an opportunity of hearing and he was not furnished with the documents. He was not permitted to scrutinize the documents which were marked by the first respondent herein. Therefore, the Appellate Court remanded the matter for fresh enquiry.

3. Again before the Arbitrator, he was given an opportunity to inspect the documents and thereafter, the Arbitrator passed an award dated 20.11.1998. Aggrieved by the same, the petitioner preferred an appeal in C.M.A.No.49 of 1999. Considering all the grounds raised by the petitioner, it was dismissed by an order dated 01.10.2001. Aggrieved by the same, this present revision.

4. This revision petition is filed after a period of 14 years from the date of the order passed in C.M.A.No.49 of 1999. True, it is that the revision is filed under Article 227 of Constitution of India and it does not require any limitation. However, it has to be filed within a reasonable time. The delay is 14 years and it is exorbitant one, that too, without any proper explanations. Again the petitioner raised the ground that he was not given an opportunity to cross examine before the Arbitrator.



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5. Already the matter was remanded for fresh enquiry and the petitioner was given enough opportunities. That apart, it is a case of misappropriation and though the petitioner was acquitted by the Criminal Court, it does not mean that he can escape from his liability.

6. Hence, this Court finds no infirmity or illegality in the order passed by the Court below and this revision is liable to be dismissed. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

22.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

mn

To

1. The District Judge and Appellate Authority of the Nilgiris, Udhagamandalam.
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M/s Frontier Industrial Co-operative
Tea Factory Limited,
Erumad, Konachal Post,
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