



CRP No.4112 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.11.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4112 of 2023

and

CMP.No.24962 of 2023

South India Cine and T.V.Outdoor Unit
Technician's Union,
Rep. By its President,
No.2, Gangadharan Street,
Dr. Ambedkar nagar, Vadapalani,
Chennai-600 026.

... Petitioner

Versus

R.Dhanapal

... Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India,
praying to set aside the fair and decretal order dated 12.10.2023 passed in
I.A.No.7 of 2023 in O.S.No.1912 of 2020 on the file of the XV Assistant City
Civil Court, Chennai.

For Petitioner : Mr. S.Sivashanmugam



CRP No.4112 of 2023

ORDER

The petitioner has filed this petition to set aside the fair and decretal order dated 12.10.2023 passed in I.A.No.7 of 2023 in O.S.No.1912 of 2020 on the file of the XV Assistant City Civil Court, Chennai.

2. Heard, Mr. S.Sivashanmugam, learned counsel for the petitioner, and perused the materials available on record.

3. Before the trial Court, the respondent / plaintiff has filed a suit for declaration to declare the resolution dated 08.12.2019 dismissing the plaintiff from his post as General Secretary and suspending him from membership of the defendant Union and communicated to the plaintiff vide letter dated 09.12.2019 as null and void and not binding on the plaintiff and permanent injunction and other consequential reliefs. On pending of the suit the defendant has filed an I.A.No.6 of 2023 in O.S.No.1912 of 2020, under Order VIII Rule 1A(3) of CPC, to receive additional document on its file. On 20.07.2023, the learned trial Judge allowed the condoned delay petition with conditions (1) to pay costs of Rs.500 to the respondent and (2) to furnish copies to document to respondent on or before 03.08.2023 and (3) to appearance of 03.08.2023 and let in evidence and mark documents and (4) in



CRP No.4112 of 2023

the event of failure to comply any of the conditions, the petition shall stand dismissed. After giving opportunity defendant did not let in any evidence, accordingly the learned trial Judge dismissed the same, as the Defendant had not filed any witnesses and had not taken summons for any witnesses. Hence DWs closed. Arguments call on 10.08.2023, I.A.No.6 of 2023 – Petitioner absent and no representation till 3.00 p.m. Respondent counsel present and waited till 3.00 p.m. Conditional order not complied. Hence petition is dismissed. Aggrieved the same, the defendant has filed an I.A.7 of 2023 to set aside the order dated 03.08.2023 made in I.A.No.6 of 2023 in O.S.No.1912 of 2020 by granting extension of time to comply with the order which was passed in I.A.6 of 2023. Considering both side submissions, the learned trial Judge holding that the petitioner has filed an I.A.7 of 2023 for seeking extension for compliance of I.A.No.6 of 2023 order. The revision petitioner has filed a petition at the stage of posted for argument. But no application was filed to reopen the case for DWs, accordingly dismissed the petition as devoid of merits. Aggrieved the same the revision petitioner /defendant has preferred this revision.



CRP No.4112 of 2023

WEB COPY 4. The learned counsel for the revision petitioner submitted that the cost of Rs.500/- was paid to the respondent on 03.08.2023. One of his Junior counsel made representation at the time of calling and sought for a pass over and at the time the respondent counsel was not present. Later when the junior counsel visited the Court to let in evidence along with the witness, he was shocked to find out that the matter was adjourned and the defendant witness was closed and the I.A.No.6 of 2023 was dismissed for non-compliance. Further, the witness are ready to step into the witness box and proof affidavit also made ready and the petitioner does not have malafide intention to drag the case, if opportunity is not given to the petitioner, it will lead much hardship to the petitioner. Hence, he prays to allow the petition.

5. Considering the facts and circumstances, now the petitioner is ready to submit the evidence and proof affidavit, he has valid defence to prove his case, therefore this Court is inclined to give one more opportunity to the petitioner to adduce evidence and witnesses. Hence, the findings rendered by the learned trial Judge in I.A.No.7 of 2023, in O.S.No.1912 of 2020 is set aside. I.A allowed



CRP No.4112 of 2023

6. However, both the parties are directed to co-operate for the proceedings and opportunity also given to other side to cross examine the witnesses and the same can be closed within a period of four months from the date of receipt of a copy of this Order.

7. Accordingly, this Civil Revision petition is Allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

03.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No

rri



WEB COPY



CRP No.4112 of 2023

T.V.THAMILSELVI, J.

ri

To

1. The XV Assistant Judge, City Civil Court, Chennai.
2. The Section Officer,
VR-Section, High Court of Madras.

Civil Revision Petition No.4112 of 2023
and
CMP.No.24962 of 2023

03.11.2023