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CRP. No.143 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06. 2024

CORAM:

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

CRP. No.143 of 2023
& CMP. No. 1224 of 2023

M.S. Subramanian

...Petitioner

Vs.

1.M/s. Sundaram Brake Linings Ltd.,
No. 180, Mount Road,
Chennai - 600 006.
2.M/s. Sundaram Brake Linings Ltd.,
Rep. by the Chairman and Managing Director,
Padi, Chennai - 600 050.

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 06.12.2022 in I.A No. 1 of 2022 in O.S No. 326 of 2012 passed by the learned XII Assistant City Civil Court, Chennai and allow the CRP as prayed for.

For Petitioner : Mr.P.Valliappan, Senior counsel.

For Responents : M/s Gautham S.Raman
for M/s Raman & Associates



WEB COPY



CRP. No.143 of 2023

ORDER

Challenging the order passed by the XII Assistant City Civil Court, Chennai, in I.A No. 1 of 2022 in O.S No. 326 of 2012 the petitioner/plaintiff filed this petition.

2. The petitioner herein filed the suit in O.S No. 326 of 2012 on the file of the XII Assistant City Civil Court, Chennai, for the relief of declaration to declare the order of dismissal dated 06.08.2009 issued to the plaintiff by the second defendant as null and void with other consequential relief. The said suit was contested by the defendant by filing the written statement before the Trial Court and three issues were framed and witnesses were examined on both sides. At this juncture, the plaintiff/petitioner herein filed I.A No. 1 of 2022 under Order 11 Rule 14 CPC to direct the defendant to produce the documents Viz., Memorandum of Settlements entered into by the defendant with Kotak Mahindra Bank Limited in C.S No. 1072 of 2007 and with YES Bank in C.S No. 1073 of 2007. The said application was contested by the respondent/defendants stating that alleged document is irrelevant to the suit since because the petitioner/plaintiff is not a party to the said compromise entered between



CRP. No.143 of 2023

YES Bank and Kotak Mahindra Bank. Considering the both side submissions, the Trial Court held that after completion of evidence near about 10 years from the date of the suit present application was filed by the plaintiff for production of certain documents without furnishing any specific reason as such is not maintainable. Accordingly, the petition was dismissed. Challenging the said findings the plaintiff approached this Court praying to set aside the findings given by the Trial Court.

3. The learned Counsel for the petitioner prayed to allow this petition on the following grounds:

i. The Learned Judge failed to see that it was pleaded before him that the defendant filed three Civil Suits before the Hon'ble High Court of Judicature at Madras against Kotak Mahindra Bank Limited in C.S.No.1072 of 2007, against HDFC Bank Limited in [C.S.No. 1080](#) of 2007, YES BANK in [C.S.No. 1073](#) of 2007. In all the Civil Suits, the petitioner of this case and one Mr. G. Manikandan were the other Defendants 2nd and 3rd respectively. During the pendency of the Civil Suits, the defendant had entered into Memorandum of settlements with Kotak Mahindra Bank Limited and Yes Bank being the 1st Defendant of the above suit without the knowledge of the petitioner. These documents are essential for proper adjudication of issues raised in the suit.

ii. The Learned Judge failed to see that the plaintiff was a party to the earlier proceedings in [C.S.No 1072](#) of 2007 and with Yes Bank in



CRP. No.143 of 2023

C.S.No.1073 of 2007. Therefore the request cannot be rejected on the ground that the plaintiff was not party to the compromise.

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iii. The Learned Judge ought to have seen that the plaintiff is issued with the order of termination and the documents prayed for had direct bearing on the issues raised in the suit which has to be decided during the Trial. If at all the Learned Judge wanted the relevancy, the Learned Judge should have directed the Petitioner/Plaintiff to prove the relevancy. Further no opportunity was given to the petitioner to adduce evidence or documents to prove the relevancy of the document. Therefore the finding of the Learned Judge that the L.A. was filed with object of protracting the Trial is not based on any valid material and the said finding of the Learned Judge liable to be set aside. Being the petitioner, who has been waiting for more than 10 years after filing a suit has no intention to protract the Trial.

iv. The Learned Judge ought to have seen that the petitioner being victim of the circumstances and issued of the order of termination it is his responsibility to prove that the order of termination was illegal. Unless the defendant is directed to produce the documents as prayed for the petitioner would be handicapped and put to prejudice. Further it was specifically prayed before the Learned Judge that the documents are directly relevant and required for proper adjudication of the issues raised in the suit.



CRP. No.143 of 2023

WEB COPY

4. By submitting the above grounds, the learned senior counsel submitted that documents sought by the petitioner/plaintiff is necessary to decide the issue involved in the suit. Besides, already the plaintiff pleaded about those documents in the plaint itself when there is necessary pleading were incorporated in the plaint in respect of those documents to prove the same the plaintiff is under necessity of those documents but the Trial Court without appreciating the said legal aspects erroneously dismissed the application. Hence, prayed to allow this petition.

5. By way of reply, the learned counsel for the respondents submitted that after completion of evidence in the suit the plaintiff come forward with present application with an ulterior motive to drag on the proceedings. Besides, those documents are irrelevant to the issue involved in the suit. That apart, the petitioner is not a party to the settlement proceedings of YES Bank and Kotak Mahindra Bank and the same was rightly observed by the Trial Court which needs no interference. Hence, he prayed to dismiss this petition.



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6. Considering the submissions on either side, the fact reveals that the petitioner herein is the plaintiff who filed the suit for declaration to declare the dismissal order passed by the defendants as null and void. According to the plaintiff he was appointed as Assistant Manager (Secretarial and Finance) in the company of the defendant, with total dedication he did this work and promoted as Financial Controller & Secretary from January 2006. While so, there is commissions and omissions by him along with then senior Manager. Thereafter, charge memo was issued and without conducting proper enquiry he was dismissed from the service on 08.08.2009. At earliest point of time he challenged the same before commissioner of Labour since he was not employee from the Factory he was advised to approach the Civil Court hence he filed the present suit. The facts reveals that in the said suit Trial has begun and the witnesses also examined after completion of the evidence. Now, the plaintiff filed the present application seeking for certain documents from the defendants in order to establish the malafide intention of the defendants to sent him out from the office after completion of the alleged settlement with Kotak Mahindra Bank and YES Bank based on one side enquiry. Moreover, on perusal of the plaint averments in Paragraph 15 and 16 the plaintiff pleaded about the conduct of



CRP. No.143 of 2023

the defendant in respect of arriving the settlement agreement with Kotak Mahindra Bank and YES Bank in the suit this petitioner as second defendant. According to the plaintiff his service was utilized by the company to arrive such settlement with the bank and then he was made to believe that the defendant would cancel the suspension after alleged settlement but after being party to the taking decision while arriving settlement with those banks the plaintiff was not been blamed any fault but after arriving settlement they blamed him and conducted one side enquiry hence to prove those pleadings the plaintiff is entitled to adduce the evidence already he averred in the plaint and he has not invented any new story by filing the present application. Therefore, the reason assigned by the petitioner is justifiable one but the Trial Court erroneously dismissed the said application without appreciating the said facts and the production of the said documents would not cause any prejudice to the defendants. Therefore the order passed by the Trial Court is liable to be set aside. Further, the Trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this Order and the liberty is granted to the respondents to put forth their defence before the Trial Court.



CRP. No.143 of 2023

WEB COPY 7. In the result, the Civil Revision Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

21.06.2024

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WEB COPY



CRP. No.143 of 2023

T.V.THAMILSELVI,J.

Pbl

CRP. No.143 of 2023
& CMP. No. 1224 of 2023

21.06.2024