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C.R.P.(MD)No.2040 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2040 of 2024

and

C.M.P.(MD)No.11621 of 2024

K U Thermal Power Private Limited,
Represented by Authorized Signatory,
Marri Venkata Subba Reddy.

... Petitioner/Petitioner/Plaintiff

Vs.

1.M/s.Sembcorp Wind Power,
Represented by its Authorized Signatory,
Madurai to Thoothukudi Bypass Road,
New Perumal Kovil, Ottapidaram Taluk,
Valasamuthiram Village, Thoothukudi.

2.M/s. Excelltech Wind India Private Limited,
Represented by its Authorized Signatory,
Door No.4/319, Anupatty Road,
Venkitapuram, Tirupur District,
Palladam - 641 665.

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 01.08.2024 made in I.A.No.2 of 2024 in O.S.No.39 of 2024 on the file of District Munsif Court cum Judicial Magistrate, Ottapidaram and to allow the above Civil Revision Petition.



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For Petitioner : Mrs.N.Krishnaveni, Senior Counsel,
For Mr.P.Thiyagarajan.

For Respondents : No appearance

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ORDER

Heard the learned senior counsel for the revision petitioner.

2.Though the respondents have been served and their names have been printed in the cause list, they have not chosen to enter appearance. It appears that the first respondent is not a necessary party. The second respondent is the sub-contractor who is executing the work.

3.The petitioner filed O.S.No.39 of 2024 on the file of the District Munsif Court, Ottapidaram for permanent injunction to restrain the defendants from interfering with the peaceful possession and enjoyment of the plaintiff over the suit property. The plaintiff also filed I.A.No.2 of 2024 seeking temporary injunction. Originally injunction was granted in favour of the plaintiff on 18.06.2024. It was however vacated on 01.08.2024. The learned senior counsel points out that on 01.08.2024, the bar was on boycott and that



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therefore, the petitioner counsel could not effectively present their case. It is also submitted that even though along with the plaint a number of documents had been filed, the Court below without taking note of the same had observed that no documents had been filed on the side of the plaintiff.

4.Taking into account these aspects, I had permitted the petitioner to directly file the civil revision petition before this Court even though in normal circumstances, the petitioner would have been called upon to avail the remedy of appeal.

5.The reasons which impelled me to entertain the civil revision petition are good enough for allowing the civil revision petition and remanding the matter to the file of Court below.

6.In a case of this nature, it would be just and proper that the petitioner is allowed to be represented by a counsel. In this view of the matter, the impugned order is set aside. The matter is remitted to the file of the trial Court. The learned District Munsif, Ottapidaram shall take up I.A.No.2 of 2024 afresh for disposal. The earlier injunction order granted in favour of the petitioner would stand restored. The learned senior counsel informs the Court that I.A.No.4 of



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2024 has been filed for impleading the principal of the second respondent herein. The petitioner is granted liberty to file a fresh I.A. in I.A.No.2 of 2024 to implead the principal of the second respondent herein. As and when such an I.A. is filed, it shall be allowed. After they are served, I.A.No.2 of 2024 will be disposed of on merits and in accordance with law.

7.This civil revision petition is allowed on these terms. No costs.
Consequently, connected miscellaneous petition is closed.

20.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The District Munsif Court cum
Judicial Magistrate,
Ottapidaram.



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G.R.SWAMINATHAN, J.

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