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A.No.983 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 28.02.2025	PRONOUNCED ON 01.04.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.Nos.983, 985 & 986 of 2025

in

O.P.No.709 of 2009

The Tamil Nadu Industrial
Investment Corporation Ltd.,
Rep., by its Branch Manager

... Applicant/Petitioner

vs.

1.M/s.T.T.G.Industries Ltd.,
Rep., by its Managing Director,
A-13, SIDCO Industrial Estate, Phase II
Maraimalai Nagar, Kanchipuram Dist.

2.Thiru Ravi Srinivasan

3.Thiru T.K.Sasidaran

... Respondents

For Applicant : Mr.K.V.Sundararajan

For Respondents : Mr.Aravind Subramanaian Sr., counsel
for Mr.E.N.Sivasenapathy for RR1-3

ORDER

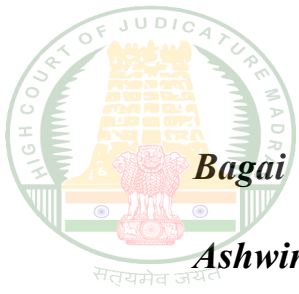
These instant applications has been filed to reopen and recall PW1



evidence and for permission to mark certain documents.

2. Heard Mr.K.V.Sundararajan, learned counsel appearing for the applicant and Mr.Aravind Subramanian learned Senior counsel appearing for the respondents.

3. The learned counsel appearing for the applicant would submit that the applicant had filed an OP for recovery of monies dues from the respondents. During the cross examination, a suggestion had been put that the present OP itself had been filed without any authority, as the applicant/petitioner is a company registered under the Companies Act. He would submit that the resolutions had been made by the Board authorising various officers to represent the company to file/initiate legal proceedings to protect the interest of the applicant/petitioner. Due to inadvertence, the same had not been filed, but since in cross such a question had been raised and that too without raising the issue of maintainability in the counter to the OP, the applicant seeks permission of this Court to mark such resolutions or otherwise, the applicant/petitioner would be put to irreparable hardship. He had also relied upon the judgments of the Hon'ble Apex Court in the case of ***United Bank of India vs. Naresh Kumar & Ors.***, reported in (1996) 6 SCC 660; ***Mr.Lalit***



Bagai vs. Gupta Building Material Store reported in ***(2013) 14 SCC 1***, and ***Ashwin vs. Kotemath and S.Usha Reddy*** reported in ***(2016) 14 SCC 142*** and

contend that a substantive right of a party should not be allowed to be defeated on technical grounds.

4. Countering his arguments, the learned Senior counsel appearing for the second respondent would submit that the said application had been taken out to fill up a lacuna that had been caused. He would submit that it is more than 16 years that the OP had been filed and the present application is bereft of material particulars. He would submit that what has been authorised is only to file a Civil and Criminal side, not an Original Petition and further the witness is only a Junior Officer and not a Branch Manager. Even if admitted the resolution has only authorised the Branch Manager and not the Junior Officer to give evidence. He would further submit that there is no pleadings in the OP as regards to the Board resolutions and therefore, no evidence can be let out on the same. He would submit that the present application is only to protract the proceedings and an application to reopen, recall and mark documents should not be mechanically ordered. Only to prevent an abuse of process of law, such application to receive documents can be ordered. Further for the said

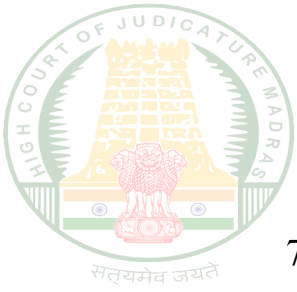


proposition, he had relied upon a judgment of the Hon'ble Apex Court in the case of *K.K.Velusamy vs. N.Palanisamy*, reported in (2011) 11 SCC 275.

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5.I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

6.Admittedly, the OP had been filed by the applicant against the respondents of whom, the second and third respondents are the guarantors and the first respondent is the Principal borrower. Even though the OP had been filed in the year 2009, the same had been put to trial and PW-1 was cross examined only in the year 2023. It is not the case of the respondents that the petitioner had not extended the loan facility to the first respondent for which the second and third respondent had stood as guarantors. When a loan had been sanctioned by an authority that too a statutory authority, such authority is entitled for recovery of the said amount. An authorisation to a Branch Manager to proceed for recovery would give an authority for him to recover the same. Failure to produce such authorization would not in any manner absolve the borrower and its guarantors from making the payment. Such Authorization is procedural in nature.



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7. Be that as it may, in the present case, authorizations have been given by the Board to various officers including the Branch Manager. Even assuming an authorization had come later authorising a particular officer, this Court is of the view that such authorization can date back to the date of the petition, as it is only an internal arrangement within the company, which cannot be taken advantage by a borrower, who had admittedly borrowed monies from the lender. Such a technical objection cannot whittle down the rightful claim of a person against another. In the present case, it is statutory claim made by the petitioner against its borrower and guarantors. On such technical grounds, the petitioner cannot be left high and dry, as it would affect the public at large.

8. For the aforesaid reasons, this Court is unable to comprehend the objections raised by the learned counsel for the respondents. In fine, these Applications are allowed PW-1 is recalled and the evidence is reopened to mark the Board Resolutions as additional documents.

9. List the matter before the learned Master for recording of further



evidence of PW-1 on 17.04.2025.

A.No.983 of.



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Pre-Delivery Order in
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