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A.No.107 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 05.03.2025	PRONOUNCED ON 01.04.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.107 of 2025

in

O.P.No.451 of 2012

Dr.S.Subbaiah

... Applicant/1st respondent

vs.

1.The Tamil Nadu Industrial Investment
Corporation Limited,
Rep., by its Branch Manager,
Special Recovery Branch,
No.692, Anna Salai, Nandanam,
Chennai – 600 035.

2.Thiru.K.Srinivasa Naicker

... Respondents

For Applicant : Mr.J.R.K.Bhavanatham

For Respondents : Mr.K.V.Sundararajan for R1

ORDER

The present application had been taken out by the first respondent seeking permission to produce the photo copies of the various documents.

2.Heard Mr.J.R.K.Bhavanantham, learned counsel appearing for the

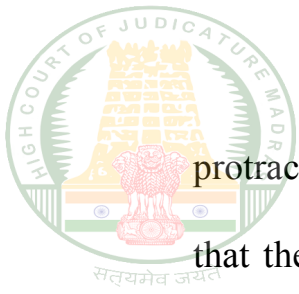


applicant and Mr.K.V.Sundararajan, learned counsel appearing for the first respondent.

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3.The learned counsel appearing for the applicant/first respondent would submit that originally he had taken out an application in A.No.5340 of 2023, in which the applicant sought leave to mark 17 documents. He would submit that in the said application, the applicant had clearly mentioned the nature of the documents that is sought to be produced by him. This Court by order dated 12.10.2023, had allowed the said application and had directed the applicant to appear before the Master for adducing evidence. However, on 05.06.2024, the learned Master only permitted to mark eight documents and had rejected the claim of the applicant, as other documents were only photo copies of the documents. He would submit that the documents are in possession of various third parties, who are his relatives with whom he do not have good understanding and therefore, he is unable to produce the said documents. Therefore, he would pray this Court to receive the said documents as secondary evidence and may be permitted to mark the documents.

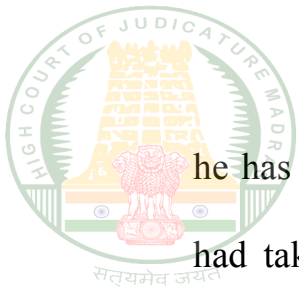
4.Countering his arguments, the learned counsel appearing for the first respondent/Petitioner would submit that the present application is only to



protract the proceedings which was filed in the year 2010. He would submit that the applicant had been delaying the recording of evidence and the same would be evident by the various order that has been passed in these proceedings. He would further submit that the application in A.No.5340 of 2023 itself was filed at very much belated stage and after considering the case, the Court had also permitted him to mark documents recording a statement made by the counsel that they would not have an objection in marking the certified copies. Therefore, what was permitted by this Court under Application No.5340 of 2023, is only to mark the certified copies of the documents and not the xerox copies of the documents. When such an order has passed and accepted by the applicant, the applicant cannot plead that he should be permitted to mark the xerox copies of the documents. He would submit that the present Application had been filed only to protract the proceedings and deny the benefits to a statutory corporation.

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

6.The respondent had not filed any documents in support of his claim at the time of the filing his counter. Only at the time of filing his proof affidavit,



he has relied upon various documents, since the same was not acceptable, he had taken out an application in A.No.5340 of 2023, which was ordered on 12.10.2023. A perusal of the said order would indicate that the learned counsel appearing on behalf of the first respondent/petitioner had indicated that he will not have any objection, if certified copies of the documents are marked subject to proof and relevancy.

7.It is to be noted that such a statement had been made only, since the applicant had indicated the nature of documents, which also included photo copies of the said documents. This Court also recorded the said statement and ordered the application. Therefore, such an order would mean that the said documents were permitted to be marked subject to marking of certified copies of the same and not the photo copies. Thereafter, the matter had been listed before the learned Master and again relegated back to this Court, as the witness was not present and after ascertaining the date from the respondent, the matter was remitted back to the learned Master for recording of evidence.

8.Thereafter various orders had been passed and the present application had been preferred. The applicant had not sought for clarification of order dated 12.10.2023, nor has he preferred any appeal against the same. When that



being so, he cannot be heard to seek in the present application to permit him to mark the photo copies of the documents permitted to be marked under Application No.5340 of 2023.

9.The Hon'ble Apex Court in the case of **K.K.Velusamy vs. N.Palanisamy**, reported in **(2011) 11 SCC 275**, had laid down a law that such applications should not be permitted as a matter of routine and that only to prevent abuse of process of Court, such applications can be considered. In the present case, even though the applicant was permitted to mark only certified copies of such documents in order dated 12.10.2023, the applicant had not taken any steps to get the certified copies of the documents for the past 1 ½ years and has now come up with the present application, which only draws this Court to a conclusion that inspite of time bound directions given by this Court to complete the evidence, the applicant/ first respondent is trying to protract the proceedings which also amounts to an abuse of process of law.

10.In fine, this Court finds no merits in this Application and accordingly, the same is dismissed. However, there shall be no order as to costs. List the OP for further evidence before the learned Master on 08.04.2025 who shall endeavour to complete the recording of evidence within eight (8) weeks



thereafter.

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A.No.107 of.



01.04.2025



WEB COPY



A.No.107 of.

K.KUMARESH BABU.J.,

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Pre-Delivery Order in
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