



C.M.A.No.1677 of  
and C.M.P.No.14735 of 2025

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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Reserved on: 20.01.2026

Pronounced on: 06.03.2026

CORAM

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

**C.M.A.No. 1677 of 2025**  
**and C.M.P. No.14735 of 2025**

Augustine Samuel

...Appellant

Vs.

1.The Chief Manager,  
Discipline and Fraud Monitoring Cell,  
Tamilnadu Mercantile Bank Ltd.,  
Head Office, 57, V.E.Road,  
Thoothukudi- 628 002.

2.The General Manager,  
Discipline and Fraud Monitoring Cell,  
Tamilnadu Mercantile Bank Ltd.,  
Head Office, 57, V.E.Road,  
Thoothukudi- 628 002.

3. The Deputy General Manager,  
Appellant Authority,  
Discipline and Fraud Monitoring Cell,  
Tamilnadu Mercantile Bank Ltd.,  
Head Office, 57, V.E.Road,  
Thoothukudi- 628 002.



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4. The Assistant General Manager,  
Disciplinary Authority,  
Discipline and Fraud Monitoring Cell,  
Tamilnadu Mercantile Bank Ltd.,  
Head Office, 57, V.E.Road,  
Thoothukudi- 628 002.

5. PA Raja  
Regional Manager,  
Tamil nadu Mercantile Bank Ltd.,  
Thiruvananthapuram Regional Office,  
Thiruvananthapuram

6.DC Ravikumar,  
Jewel Appraiser,  
Tamil Nadu Mercantile Bank,  
Ambur Branch,  
Ambur.

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Order 43 Rule 1 ( R)of CPC), against the fair and decretal order passed by the learned Principal District Judge, Krishnagiri, dated 25.04.2025 in I.A.No.03 of 2024 in O.S.No.650 of 2024.

For Appellant : Mr.M.Mohamed Afridi  
For Respondents : D.Abdullah for R1 to R6



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## **JUDGMENT**

This appeal is preferred against the order passed in I.A.No.3 of 2024 in O.S.No.650 of 2024 dated 25.04.2025 on the file of the Principal District Court, Krishnagiri.

2.The appellant as plaintiff filed the above suit in O.S.No.650/2024 for the following reliefs:

i. by declaring that the purported impugned order of appeal passed by the 3<sup>rd</sup> defendant dated 06.08.2024 in Ref.No.DFMC:03086:191:AO:2024-25:283 as bad, void ab initio, nonest in the eye of law and not binding on the plaintiff.

ii. by declaring that the purported impugned final order passed by the 4<sup>th</sup> defendant dated 02.07.2024 in Ref. No.DFMC.Disp.191/3971/H/Cor.11/2024-25 as bad, void ab initio, nonest in the eye of law and not binding on the plaintiff

iii. by a decree for payment of arrears of salary, prerequisites and emoluments, etc, for a sum of Rs.18,00,000/- only, payable by the defendant's bank to the plaintiff.

3.The appellant/plaintiff along with the plaint, filed an application under Order 39 Rule 1 & 2 and Section 151 of CPC for granting interim injunction to



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stay the impugned order of appeal passed by the 3<sup>rd</sup> respondent on 06.08.2024 in Ref.No.DFMC 03086 : 191:AO:2024-2025:283 and the impugned order passed by the 4<sup>th</sup> respondent dated 02.07.2024 in Ref. No.DFMC.Disp.191/3971/H/Cor.11/2024-2025 pending disposal of the suit.

4.The contention of the appellant in the above petition is that, he joined the Tamil Nadu Mercantile Bank (herein after referred to as TMB) in the year 2011 in the cadre of Clerk and was promoted as Officer scale I in the year 2017 and he was serving as Branch head of the Krishnagiri branch, where he faithfully executed his duties to ensure the growth and prosperity of the Bank. While so, on 02.07.2024 he was dismissed from service based on ceratin allegations and the appeal preferred by him was also dismissed. The charges were framed against him in a biased manner which was addressed by the appellant meticulously. Without considering the detailed reply submitted by the appellant, he was dismissed from service without following the procedures and the principles of natural justice. Thereafter, he joined HDFC Bank as a relationship Manager on 19.08.2024. However, the appellant apprehends that the said illegal disciplinary proceedings would affect his current employment and prospects. Hence, he was constrained to file the above suit and the interim petition. It is stated that the appellant is not seeking reinstatement and only sought the relief to suspend the order passed by the disciplinary authority.



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5.The petition filed by the appellant was resisted by the respondent stating that, the suit and the interim application are filed by suppressing the true facts. The Civil Court has no jurisdiction to maintain the suit for the reason that, the TMB limited is a private bank which comes under the definition of 'Commercial Establishment' as per Section 2(3) of the Tamil Nadu Shops and Establishment Act, 1947. Further, Section 41 (2) of the said Act is the effective remedy available for the appellant, where the appellant is having a right to appeal. The further contention of the respondents is that, the appellant was dismissed from service in connection with the serious acts of misconduct proved against him. Further, the petitioner having accepted the dismissal order and having claimed the eligible terminal benefits from the bank by submitting necessary forms to the Head Office is not entitled to file the present suit. A sum of Rs.5,59,563/- was settled on 10.01.2025 towards gratuity by the Management on humanitarian grounds. Hence, the appellant cannot file a suit challenging the dismissal order passed against him and also not entitled for the interim relief claimed in the petition. Hence, prayed for dismissal of the interim application.

6.The trial Court considering the facts and circumstances of the case and the materials on record dismissed the said petition, against which the present appeal is preferred.



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7. The learned counsel for the appellant would submit that, there is no statutory bar to invoke the jurisdiction of the Civil Court, with regard to the present dispute as per the observations made in CRP (PD) No.4254 of 2024. He would submit that the Civil Court's jurisdiction is plenary and only barred by express or necessary implication, and that no such bar exists in the present case. He would submit that under Section 9 of the Code of Civil Procedure, the Court shall have jurisdiction to try all suits of civil nature excepting suits of which cognizance is either expressly or impliedly barred and that a suit in a Civil Court will always lie to question the order of a Tribunal created by a statute, even if its order is, expressly or by necessary implication, made final, if the said Tribunal abuses its power or does not act under the Act but in violation of its provisions. To support his contention, he has relied upon the judgments reported in **1975 Air 2238, Writ petition No.3597 &3598 of 1999, Appeal (Civil) 2945 of 2008 and Civil Appeal No.328 of 2005.**

8. He would further submit that the principles laid down in **Subho Ram Kalita** case reported in **AIR 1987 GAUHATI 73** supports the use of inherent powers under Section 151 CPC where no express statutory mechanism exists to prevent continuing injustice arising from an impugned order. The issue in the disciplinary proceedings is whether the employee is guilty of the charges on

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which it is proposed to take action against him. The same issue may arise for decision in a civil or criminal proceedings pending in Court. While so, the employee is free to move the Civil Court for an order restraining the continuance of the disciplinary proceedings. To support his contention, he has relied upon the judgement reported in *AIR 1987 GAUHATI 73* and *1988 AIR 2118*. Hence, prayed for setting aside the order passed by the learned Principal District Judge, Krishnagiri in I.A.No.3 of 2024 dated 25.04.2025.

9.On the other hand, the learned counsel for the respondents would submit that, since TMB is a private Bank, it comes under the definition of 'commercial establishment' as per Section 2(3) Tamil Nadu Shops and Establishment Act, 1947. The only remedy available for the appellant is to invoke the provisions under Section 41 (2) of the Tamil Nadu Shops and Establishment Act,1947. It is further submitted that due to serious acts of misconduct such as sanctioning loan on fake jewels and various other irregularities and fraudulent activities committed by the appellant having proved, he was dismissed from service by the disciplinary authority. The appeal preferred by the appellant was also dismissed by the Appellate Authority. The appellant having accepted the dismissal order and the gratuity amount is not entitled to file a suit challenging the dismissal order passed against him. To support his contention, he has relied upon the judgments reported in



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***(1) WA. No.3319 of 2024 dated 15.11.2024***

***(2) MANU/TN/0435/1991***

***(3) MANU/TN/0464/1992***

***(4) MANU/TN/7675/2007***

***(5) MANU/TN/2223/2013***

***(6) 2004 (3) SCC 43***

Hence, prayed for dismissal of the appeal.

10.Heard on both sides, records perused.

11. No doubt, the appellant is having an effective alternative remedy under Section 41 (2) of the Tamil Nadu Shops and Establishment Act, 1947, since TMB is a private Bank, which comes under the definition of "Commercial Establishment" as per Section 2 (3) of Tamil Nadu Shops and Establishment Act, 1947. As rightly pointed out by the learned counsel for the appellant, Section 41 (2) of Tamil Nadu Shops and Establishment Act, 1947 provides a limited remedy confined to whether termination was for 'reasonable cause' and does not provide an adequate or exclusive mechanism to address complex claims involving denial of fair hearing, coercion and violations of natural justice. While so, there is no express bar on the jurisdiction of Civil Courts to entertain such suits. In the present case, the appellant does not merely challenge



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the dismissal but also the entire process including denial of opportunity to be heard, coerced signing of blank papers, and wrongful imposition of blame to shield higher officials. Such composite grievances cannot be adequately addressed under Section 41 of the Tamil Nadu Shops and Establishment Act, 1947 and that the Civil Court is only the proper forum. But, in the present case, the appellant has accepted the dismissal order and the gratuity amount without any protest. The report of the enquiry officer would reveal that all the charges levelled against the appellant found to be proved. The appeal preferred by the appellant was also dismissed by the appellate Authority. The materials on record would establish that, the appellant was given sufficient opportunity to put forth his defence. The appellant failed to establish that the authorities have violated the principles of natural justice, to invoke the jurisdiction of the Civil Court. Hence, the trial Court has rightly directed the appellant to avail the alternative remedy under Section 41 (2) of the Tamil Nadu Shops and Establishment Act, 1947. No perversity or infirmity found in the order passed by the trial Court, which warrants any interference by this Court.

12. Accordingly, this civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2026

vsn



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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The Principal District Judge, Krishnagiri

2. The Section Officer,

VR Section, High Court, Madras.



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**K.GOVINDARAJAN THILAKAVADI,J;**

VSN

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