

(1994) 07 MAD CK 0116

In the Madras High Court

Case No : Civil Revision Petition No. 1513 of 1994

Thiruchirapalli District Central Co-operative Bank Ltd. and
The Special Officer, Tiruchirapalli District Central Co-operative
Bank Ltd.

APPELLANT

Vs

M. Krishnasami

RESPONDENT

Date of Decision : 15-07-1994

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Constitution of India, 1950 — Article 227

Citation : (1994) 07 MAD CK 0116

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Advocate : Vijay Narayan, for the Appellant; R. Ganesan, for the Respondent

Judgement

Srinivasan, J.—The respondent filed O.S. No. 863/94 on the file of the First Additional District Munsif, Tiruchirapalli, for declaration that the action of the second defendant and the first defendant in not having published the seniority list dated 28.2.1990 in respect of the Managers in the defendants' bank by placing the plaintiff in the 8th place is arbitrary, ultra vires and void and for consequential relief of permanent injunction restraining the defendants from promoting the Managers to fill up the vacancy for the post of Assistant Secretary as and when it arises by abiding void seniority list. In short, the respondent is questioning the seniority list published by the petitioners. Pending the suit, the respondent filed I.A. No. 473 of 1994 for an injunction restraining the petitioners herein from exercising the power of promoting any Manager to the post of Assistant Secretary on the basis of the void seniority list. The Additional District Munsif passed an order on 22.6.1994 in the following terms:

Heard. Perused the documents. I am satisfied prima facie case is there. If ad-interim injunction is not granted, petitioner will be put into irreparable loss. Hence, ad interim injunction is granted till 22.6.1994.

Aggrieved by the said order, the petitioners preferred a revision petition to this Court. During the vacation, I admitted the same and passed an order on 3.5.1994 suspending the operation of the order passed by the First Additional District Munsif.

2. A preliminary objection is taken by Learned Counsel for the respondent herein to the maintainability of the Civil Revision Petition According to him, the remedy of the petitioners is only to go before the Additional District Munsif with an application under O. 39 R. 4 CPC to vacate the interim order passed by him and no civil revision petition is maintainable in this Court. No doubt, in normal circumstances, this Court will not entertain any revision petition against an ad-interim exparte order under which notice is also directed to the opposite party. But in cases of gross injustice and patent violation of elementary principle of law, this Court will not hesitate to interfere with such orders. The present petition is one under Art. 227 of the Constitution of India and it is not subject to the limitations contained in S. 115, Code of Civil Procedure.

3. The petitioners represent Tiruchirapalli District Central Cooperative Bank Limited. Assuming that the respondent herein, who has tiled the suit will succeed in the suit ultimately, till he does so, the activities of the petitioner bank cannot be paralysed by stopping them from making any promotion to the post of Assistant Secretary. If an Assistant Secretary is not appointed, it will certainly cause irreparable damage to the affairs of the bank and if it will not be able to function properly, it will be affecting a large body of persons, who are not parties to the proceedings. In the larger interest of the constituents of the bank, it is absolutely necessary that the bank should function normally subject to the result of the suit. Even if the petitioner ultimately succeeds in the suit, he can certainly work out his rights by putting forward the appropriate seniority fixed for him in the suit.

4. The petitioners have also raised an objection as to the maintainability of the suit. That is a matter to be gone into by the trial Court and it is open to both parties to argue the matter before the trial Court. The Court will decide whether the suit is maintainable and proceed to consider the suit on merits if it is held to be maintainable.

5. In the circumstances, the order passed in I.A. No. 473/94 on 22.6.1994 is set aside. The application is dismissed as no such relief could be granted to the respondent herein during the pendency of the suit.

6. This order will not prejudice the contentions of the respondent herein in the main suit. The trial Court will decide the suit on the merits of the contention of both parties without in any way being swayed by any of the observations made in this order. The Civil Revision Petition is allowed. There will be no order as to costs.