

In the Court of Labour Court, Kancheepuram

**Present: Tmt.S.Sujatha, M.A., M.L.,
Presiding Officer,
Kancheepuram.**

Monday, the 27th day of October 2025

**I.A.No.5/2025
in
C.P.No.79/2019**

Suja Shoei Industries Private Limited,
R.S.136/4,5,6,13,14 & 15A
N.H.45, Pathiri,
Tindivanam 604 307.

--- Petitioner/2nd Respondent

//vs//

1. S.Jagadeesan,
S/o.Sundarrajan,
No.4, Vaniyar Street,
Mangalam, Thirukazhukundram,
Kancheepuram District.

--- 1st Respondent/ Petitioner

2. The Management UCAL
Auto Private Limited,
EP-3, New SIDCO Industrial Estate,
Marimalai Nagar,
Chennai 603 209.

--- 2nd Respondent/ 1st respondent

This petition came up on 15.10.2025 this day for final hearing before this court in the presence of M/s.D.Abdullah, M.Sethuraman, Yahya Abdullah and H.Habubacker Siddiq Advocates for Petitioner/2nd Respondent. M/s. D.Ramesh, S.Venkatesan, P.Ganesan, P.Duraivel Advocates for 1st respondent/petitioner and M/s.H.Balaji Advocate for 2nd Respondent/1st respondent is already exparte in main petition and upon perusal of records and

having stood over for consideration till this day, this court delivered the following:

ORDER

1. Petition filed by the petitioner/2nd respondent U/sec.11 of the ID Act praying to receive the additional counter statement of the petitioner/2nd respondent in C.P.No.79/2019 and pass such further orders.

2. The averments in the petition filed by the Petitioner/ 2nd respondent is as follows:

Petitioner is 2nd respondent company. 1st respondent /petitioner obtained an exparte award dated 18.03.2015 in ID.122/2014 against 2nd respondent/ 1st respondent, alleging illegal termination. The present claim petition is based on the said award to compute the award benefits payable to the 1st respondent /petitioner. The 2nd respondent/1st respondent was merged with petitioner/ 2nd respondent herein by an order of NCLT dated 22.03.2023. Tribunal had allowed merger approving the resolution plan submitted by petitioner herein containing the assets and liabilities. While passing exparte award dated 18.03.2015 the court failed to note that the ID has been raised after much lapse of limitation. The termination had taken place in the year 2007. ID was filed after getting failure report dated 29.11.2012 and ID.122/2014 was taken on file only in the year 2014. The issue pertaining to limitation was not raised in the counter statement, filed in CP.79/2019 by the counsel inadvertently and the original award itself is passed in a time barred Industrial dispute and hence the

present claim petition is not maintainable. Petitioner was unable to plead the question of limitation, as it was not pleaded in the counter statement earlier. Petitioner is constrained to file the additional counter statement raising the specific issue of limitation. By allowing the application, no prejudice will be caused to the respondent No.1/petitioner. If the petition is not allowed the same will cause serious prejudice and loss to the petitioner/2nd respondent. Hence this petition to receive additional counter statement of petitioner/ second respondent in CP.79/2019.

3. The averments in the counter filed by the 1st respondent/petitioner is as follows:

The present petition seeking permission to receive additional counter at the stage of arguments is not maintainable either in law or on facts. The fact that an exparte award dated 18.03.2015 in ID.122/2014 was obtained against the 2nd respondent/1st respondent is correct. The 2nd respondent/1st respondent had successfully suppressed the fact of the ID filed by the 1st respondent/petitioner and about the claim petition before the NCLT proceedings. The respondents failed to comply the order passed in ID.122/2014. The claim petition was not contested by the petitioner herein and it was allowed on 28.10.2021, subsequently 1st respondent/petitioner filed EP based on the order passed in CP. Thereafter, the respondent/management filed petitions to contest the CP and claim petition came to life and EP was terminated. The competent court has passed the award and the 1st respondent/petitioner herein has not challenged the

award passed by the court. The 1st respondent /petitioner is being run to pillar to post to get justice passed for more than 10 years. The malafide intention of the respondent/management is to harass the 1st respondent. The petitioner/ second respondent has no right to deny or object the award passed by the court in ID 122/2014. The management has not proved their defence during the proceedings in ID which was uncontested. The stand that original award itself is passed in a time barred Industrial dispute and the present claim petition is not maintainable is hereby strongly denied. The petition is well within limitation. The petitioner/ second respondent was unable to plead the question of limitation as it was not pleaded in the counter statement by the earlier point of time is denied. The petitioner/ second respondent has constrained to file additional counter statement raising specific issue of limitation. In fact, malafide intention of the respondent/management is to harass the petitioner/ first respondent. Cross of RW1 closed on 13.05.2025 and till date respondent/management is dragging the proceedings by filing petitions by petitions. Even after sufficient time given to the petitioner/ 2nd respondent to defend the claim petition, deliberately failed to defend the same with the intention to drag the case. The petitioner has filed this permission petition to file additional counter statement as an after thought to harass the 1st respondent/ petitioner, hence to be dismissed with cost.

4. The point for consideration is whether the petition is to be allowed or not?

5. The petitioner has stated that 1st respondent/petitioner herein has obtained an exparte award in ID.122/2014 and the 1st respondent /petitioner was alleged have been terminated from service in the year 2017, Whereas the ID 122/2014 had been filed after the period of limitation and hence the award passed in ID.122/2014 is not maintainable. In such circumstances the claim petition filed here, based on the award passed in ID.122/2014 itself is not maintainable, and further has stated the said plea of limitation was omitted to be pleaded by the counsel and hence it has become necessary to file additional counter and hence this petition is filed seeking permission to file additional counter and further the petitioner has stated that the 2nd respondent company and the 1st respondent company had been merged together by the order of the NCLT and the assets and liabilities had been merged and in such circumstances as the claim petition itself is not maintainable, the petition seeking permission to file additional counter has to be allowed.

6. On the other side the first respondent/petitioner has contended that the petitioner herein has wantonly suppressed the pendency of ID.122/2014 as well as the claim petition filed by this 1st respondent/ petitioner before the NCLT proceedings and further has contended that in the ID.122/2014 exparte award, had been passed the petitioner herein had failed to contest the same, When the exparte award passed in ID.122/2014 had not been challenged, the petitioner herein now cannot take a plea the award passed in ID.122/2014 is passed without considering the period of limitation and hence this claim petition is not

maintainable, it is unsustainable and furthermore, when the case is in the stage of arguments, the plea of the petitioner that he must be permitted to file additional counter pleading limitation is not maintainable and the same is liable to be dismissed.

7. Perusal of records, shows, that this CP is filed based on the exparte award passed in ID.122/2014. The petitioner herein has not challenged the exparte award in ID.122 /2014. When the exparte award in ID.122/2014 is not challenged and when the first respondent/petitioner has filed this claim petition within time, based on the award of passed in ID.122/2014. Now, the petitioner cannot take a stand stating that the court failed to consider the limitation aspect while passing the exparte award in ID.122/2014 and hence, this CP is not maintainable, cannot be taken into consideration. Further more when the CP is filed in the year 2019 based on the award passed in ID.122/2014 on 18.03.2015 after a period of nearly more than 5 years when the CP is pending and it had reached the stage of arguments and at this stage the petitioner taking a plea that he failed to take the plea of limitation in ID.122/2014 and the CP is not maintainable and must be permitted to file additional counter statement is not maintainable. Unless and otherwise the award passed in ID.122/2014 is challenged, the petitioner cannot restrict the proceedings in CP.79/2019. The remedy available to the petitioner is only to challenge the award passed in ID 122/2014 and when he has failed to appear before the court and failed to contest in ID.122/2014 and after nearly 9 years coming forward with the application

stating that the court failed to consider the period of limitation while passing the exparte award in ID.122/2014 and hence the CP filed in consequence of the award passed in ID.122/2014 is not maintainable cannot be accepted. The reason stated by the petitioner is not maintainable. The petitioner has no right to challenge the award passed in ID.122/2014 in this CP and hence the court is of opinion that, the petition itself is not maintainable and the same is liable to be dismissed with cost.

In the result petition is dismissed with cost to 1st respondent/petitioner.

This order has been dictated by me to the Steno-Typist, typed by her in the computer, corrected and pronounced by me in the Court on this 27th October 2025.

Sd/-S.Sujatha
Presiding Officer,
Labour Court,
Kancheepuram.