

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 30815 of 2010 (B)

AGAINST THE ORDER/JUDGMENT IN WCC 39/2001 of W.C.C.,THRISSUR DATED 4.6.2009

PETITIONER(S):

V.K.ASOKAN, S/O.KUNJIKITTAN,
VILAMBATH HOUSE, "SREELAKSHMI", BENNETT ROAD,
CHEMBUKAVU, THRISSUR.

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENT(S):

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1. LAKSHMANAN (DIED)
S/O.RAMANKUTTY, KADAMPIDIN PADOOR HOUSE, P.O.KAVISSERI,
ALATHOOR, PALAKKAD-678 543.
 2. KAMALAKSHI, W/O.LATE LAKSHMANAN,
KADAMPIDIN PADOOR HOUSE, P.O.KAVISSERI, ALATHOOR,
PALAKKAD-678 543.
 3. VIMALDAS, S/O.LATE LAKSHMANAN,
KADAMPIDIN PADOOR HOUSE, P.O.KAVISSERI, ALATHOOR,
PALAKKAD-678 543.
 4. SATHYABHAMA, D/O.LATE LAKSHMANAN,
KADAMPIDIN PADOOR HOUSE, P.O.KAVISSERI, ALATHOOR,
PALAKKAD-678 543.
 5. RADHAKRISHNAN, S/O.LATE LAKSHMANAN,
KADAMPIDIN PADOOR HOUSE, P.O.KAVISSERI, ALATHOOR,
PALAKKAD-678 543.
 6. THE DEPUTY TAHSILDAR,
THRISSUR TALUK OFFICE, CHEMBUKAVU, THRISSUR-680 001.
 7. THE VILLAGE OFFICER,
THRISSUR VILLAGE OFFICE, CHEMBUKAVU, THRISSUR-680 001.
 8. THE COMMISSIONER FOR WORKMEN'S COMPENSATION,
DEPUTY LABOUR COMMISSIONER,
THRISSUR-680 001.
 9. THE DISTRICT COLLECTOR,
THRISSUR-680 001.
 10. THE STATE OF KERALA, REP. BY
THE SECRETARY TO THE GOVT., REVENUE DEPARTMENT
GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695 001.

R2-R5 BY ADV. SRI.D.ANIL KUMAR
R6 TO R10 BY SMT.LILLY LESLIE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE EXPARTE AWARD PASSED IN WCC NO.39/2001 DATED 30.6.2009 BY THE 8TH RESPONDENT.
- EXT.P2: COPY OF THE SHOW CAUSE NOTICE SERVED ON THE PETITIONER DATED 21.4.2010.
- EXT.P3: COPY OF THE UNNUMBERED APPLICATION FILED IN WCC NO.39/2001 DATED 12.7.2010 BEFORE THE 8TH RESPONDENT.
- EXT.P4: COPY OF THE DELAY CONDONATION APPLICATION FILED AS I.ANO.741/2010 IN WCC NO.39/2001 DATED 12/7/2010 BEFORE THE 8TH RESPONDENT.
- EXT.P5: COPY OF THE REVENUE RECOVERY NOTICE SERVED ON THE PETITIONER DATED 21/7/2010.

RESPONDENT'S EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

ANU SIVARAMAN, J.

W.P.(C).No.30815 of 2010

Dated this the 9th day of September, 2015

J U D G M E N T

This writ petition is filed seeking directions to the 8th respondent, authority under the Workmen's Compensation Act to take up Exhibit P3 and P4 applications and to decide the same on merits and to stay all proceedings pursuant to Exhibit P5 notice issued under the Revenue Recovery Act, until then. It is the case of the petitioner that he was the 2nd opposite party in W.C.C.No.39/2001 before the 8th respondent. Exhibit P1 award was passed by the 8th respondent, setting the petitioner ex-parte. It is submitted by the petitioner that he had not received the summons before Exhibit P1 was rendered. It is in the above circumstances, the petitioner had submitted Exhibit P3 application to set aside the ex-parte and Exhibit P4 interlocutory application to condone the delay in preferring the said application. In the meanwhile, on the basis of Exhibit P1, it appears that Exhibit P5 Revenue Recovery notice was also issued by respondents 6 and 7.

2. Heard Adv.G.Sreekumar for the petitioner and Adv.D.Anilkumar for respondents 2 to 5 and the learned Government Pleader for respondents 6 to 10. Since it is a

specific case of the petitioner that no summons was received by him in the Workmen's Compensation case, I am of the opinion that this is a fit case where Exhibit P3 and P4 applications are to be considered on merits. Till such time as Exhibits P3 and P4 applications are not considered and disposed of, Exhibit P5, which has been stayed by this Court at the time of admission of this writ petition shall stand stayed.

3. It is submitted by the counsel appearing for the parties that the Labour Court, Palakkad is now empowered to hear Exhibits P3 and P4 applications. In the above circumstances, the parties are directed to appear before the Labour Court, Palakkad on 13.10.2015 with a copy of this judgment. The records in W.C.C.No.39/2001, transfered to this Court shall be transmitted to the Labour Court, Palakkad. The Labour Court, Palakkad shall take up the matter and pass orders on Exhibits P3 and P4 within two months from 13.10.2015. All contentions of parties are left open.

Writ petition is disposed of as above.

Sd/-
(ANU SIVARAMAN, JUDGE)

//TRUE COPY//

P.A TO JUDGE

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