

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.25896 of 2014

and

MP.Nos.1 of 2014

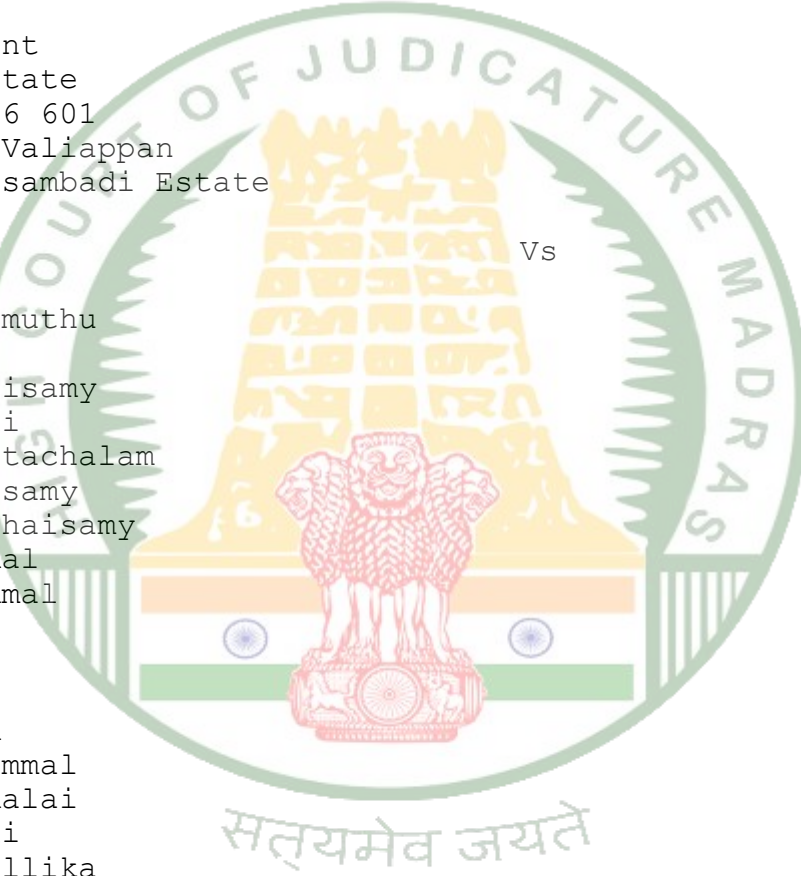
and 1 of 2015

The Management
Vasambadi Estate
Yercaud - 636 601
Rep.by LRMK Valiappan
Receiver, Vasambadi Estate

... Petitioner

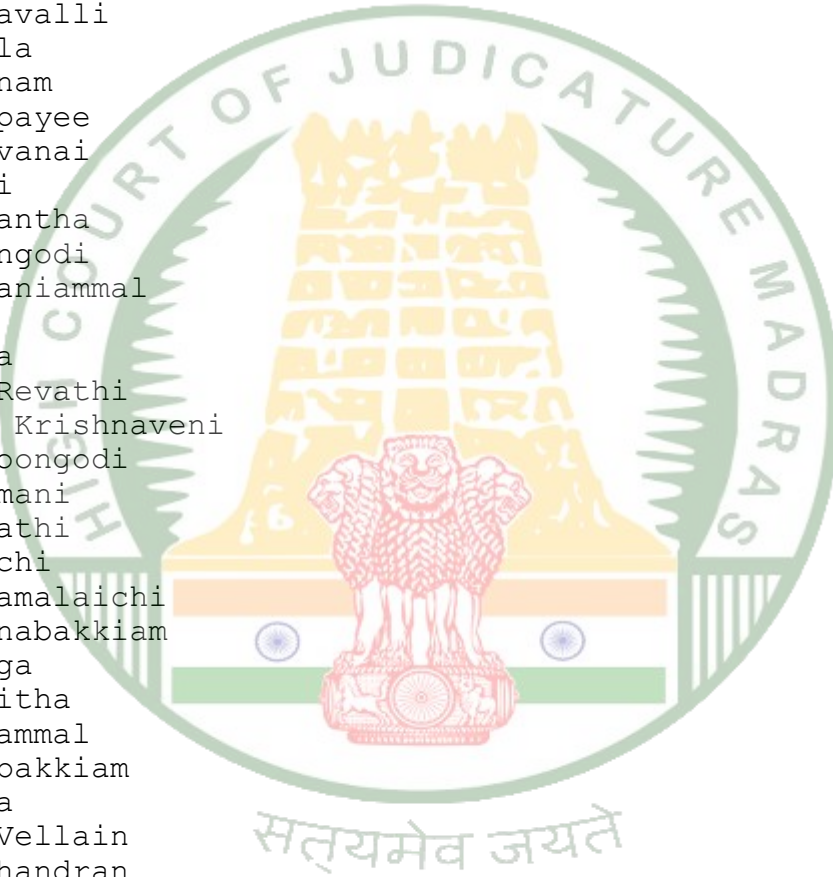
Vs

1 Thavasimuthu
2 M.Raja
3 P.Palanisamy
4 V.Poochi
5 P.Venkatachalam
6 K.Kandasamy
7 Kuzhanthaisamy
8 Mariammal
9 Maathammal
10 Saroja
11 Elisa
12 Chinna
13 Kamalam
14 Palaniammal
15 K.Unnamalai
16 Pappathi
17 Periamallika
18 P.Selvi
19 Muniammal
20 Pushpam
21 Thaymmal
22 Kumari
23 Nagammal
24 Thangammal
25 Regina
26 P.Pappa
27 R.Lakshmi
28 M.Chitra
29 Priya
30 Dhanabakkiam



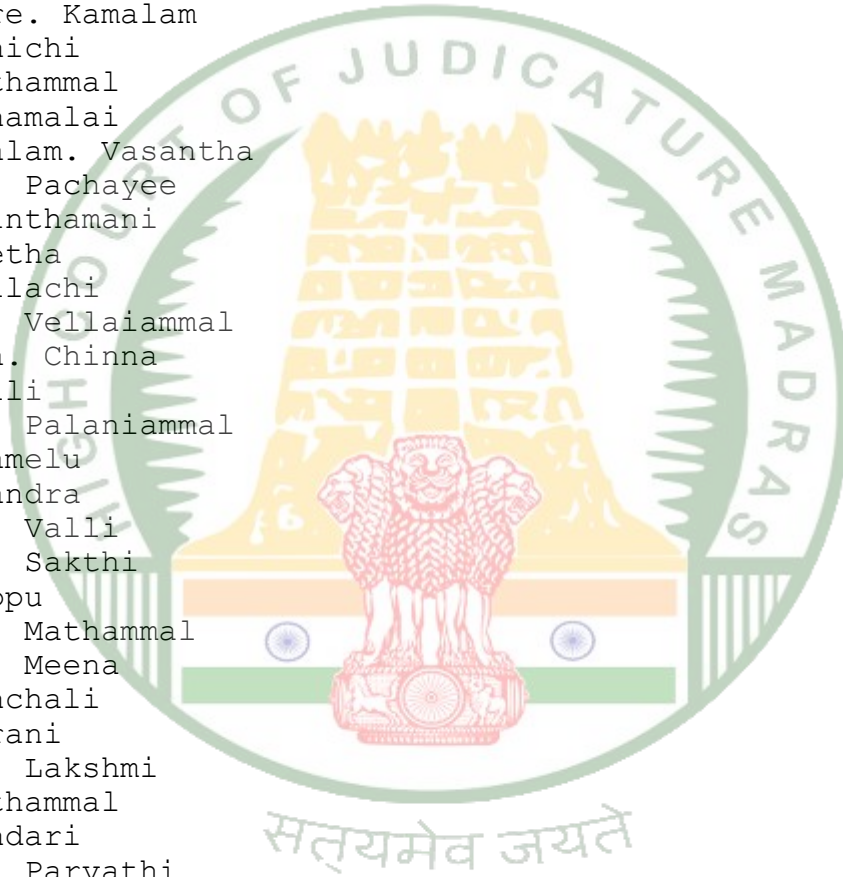
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31 Anbuvalli
32 Murugayee
33 Kasi. Maathammal
34 Manjula
35 P.Maniammal
36 Kodi. Bakkiam
37 P.Maathammal
38 Aath. Karutha
39 Pali. Muthumani
40 Amaravathi
41 Muluvi. Valli
42 V.Vasanth
43 Santhavalli
44 Suseela
45 A.Dhanam
46 P.Kuppayee
47 M.Deivanai
48 P.Rani
49 A.Vasanth
50 P.Poongodi
51 K.Palaniammal
52 Malar
53 Santha
54 Pali.Revathi
55 Seng. Krishnaveni
56 P.M.Poongodi
57 Kalaimani
58 Banumathi
59 Malaichi
60 K.Annamalaichi
61 C.Dhanabakkiam
62 K.Kanga
63 P.Lalitha
64 Chennammal
65 Dhanabakkiam
66 Saroja
67 Pali.Vellain
68 Jeyachandran
69 Kandasamy
70 Seng.Palani
71 K.Mathesh
72 Periyagoundan
73 Periyakuppan
74 Bakkiaraj
75 Kathiresan
76 K.Rajaram
77 K.Kuppusamy
78 P.Raman
79 Siva
80 Pali.Sundaram
81 Kodi.Lakshmi



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82 K.Palaniammal
83 K.Saroja
84 P.Parvathi
85 P.Lakshmi
86 A.Vellachi
87 K.Jothi
88 M.Lakshmi
89 Kasi. Vellaiammal
90 Sakunthala
91 Puthu. Vellaichi
92 P.Vijaya
93 M.Mallika
94 Mysore. Kamalam
95 P.Manichi
96 A.Mathammal
97 K.Unnamalai
98 Mangalam. Vasantha
99 Pali. Pachayee
100 A.Chinthamani
101 P.Geetha
102 A.Vellachi
103 Seng. Vellaiammal
104 Vazha. Chinna
105 A.Valli
106 Mani. Palaniammal
107 P.Alamelu
108 P.Chandra
109 Pili. Valli
110 Seng. Sakthi
111 P.Pappu
112 Seng. Mathammal
113 Pali. Meena
114 K.Panchali
115 Indarani
116 Samu. Lakshmi
117 K.Mathammal
118 P.Sundari
119 Mani. Parvathi
120 K.Bakkiam
121 Samu.Selvi
122 Rukmani
123 Thalai.Velliammal
124 Andi Palaniammal
125 Thalai Jayamani
126 Sora Valli
127 Pushparani
128 Nagavalli
129 K.Kuppayee
130 A.Dhanabakkiam
131 G.Lakshmi
132 K.Sulochana



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133 Boopathi
134 Kala
135 Chinnavellayan
136 Theerthagiri
137 A.Kuppusamy
138 Eswaran
139 Chandran
140 Mariammal
141 Vijiyar
142 Chinnakuppan
143 Paramasivam
144 Allimuthu
145 Moyyasamy
146 Peruchandi
147 Pil.Kozhanthan
148 Pali.Goundan
149 Rajendran
150 Vijayakumar
151 Palanisamy
152 Periyamanian
153 Elangovan
154 Balakrishnan
155 S.Mani
156 Perumal
157 A.Andi
158 Rathinavalli
159 Annamalai

Respondents 1 to 159 are rep. by Neelamalai Thotta
Thozhilalar Sangam Thotta Thozhilalar Illam
Main Road Yercaud

160 The Presiding Officer
Labour Court, Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the order of the 160th respondent Labour Court, Salem dated 18.8.2014 in I.A. No.395 of 2009 in C.P.No.117 of 2006 and quash the order dated 18.8.2014 in C.P.No.117 of 2006.

For Petitioner : Mr.M.Sivavarthan
For R1 to R.159 : Mr. K.M.Ramesh

ORDER

The Management has filed the above writ petition to issue writ of certiorari to call for the order dated 18.8.2014 of the Presiding Officer, Labour Court, Salem, passed in I.A.No.395 of 2009 in C.P.No.117 of 2006 and quash the same.

2. It is the case of the petitioner that the respondents filed C.P.No.117 of 2006 on the file of the Presiding Officer, Labour Court, Salem, for recovery of interest of Rs.17,10,536.44 for the delayed payment of wages as per 12 (3) settlement dated 03.12.2003 for the period from 01.01.1995 to 02.4.2004 against them. On 10.1.2007, the petitioner Management, failed to appear before the Labour Court and, therefore, the Labour Court set them ex-parte and an ex-parte order was passed as against the Management. Thereafter, the Management filed an application stating that the person, who was in charge of the Management was suffering from heart disease for the past several years and, therefore he could not attend the Court on 10.01.2007. Hence, there is a delay of 1017 days in filing the petition to set aside the ex parte order.

3. The said petition was opposed by the employees on various grounds. In the counter, they have stated that the Management has not explained the reasons for the delay in proper manner. The Labour Court, after taking into consideration the case of both sides, dismissed the application filed by the Management stating that the delay of 1017 days in filing the petition to set aside the ex-parte order was not properly explained by the Management. Against the said order, the Management has filed the above writ petition.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 to 159.

5. On a perusal of the affidavit filed in support of the application in I.A.No.395 of 2009 in C.P.No.117 of 2006, it could be seen that the representative of the Management has stated that he was suffering from heart ailment and that he was taking treatment for the past several years. Therefore, he could not appear before the Court on 10.01.2007. The Management also produced the Medical Certificate issued by the Doctor in support of their contention. However, on a perusal of the Medical certificate dated 10.11.2009 produced by the petitioner Management, it could be seen that the Doctor has not stated that the representative of the Management was taking treatment during the relevant period and that he was bed-ridden and that he was not in a position to move around or appear before the Court. That apart, the Management has not examined the Doctor on its side. In fact, the Management has not examined their representative also in order to substantiate the averments stated in the affidavit filed in support of the writ petition.

6. In the absence of any acceptable reason given by the Management for condoning the inordinate delay of 1017 days, the application filed by the Management was rightly dismissed by the Labour Court.

7. In these circumstances, I do not find any error or irregularity in the order passed by the Labour Court and the writ

petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

8. It is submitted by the learned counsel for the respondents that the Management has already deposited a sum of Rs.5,00,000/- in the earlier writ proceedings and the same has been withdrawn by the workers. Thereafter, in the present writ petition, this Court had directed the Management to deposit a sum of Rs.5,00,000/- on 24.9.2014. According to the learned counsel on either side, the said amount was also deposited by the Management in due compliance of the order dated 24.9.2014. It is also brought to the notice of this Court that the petitioner Management has deposited sum of Rs.3,00,000/- even during the pendency of the application before the Labour Court.

9. Since the writ petition has been dismissed by this Court, I permit the respondents workers to withdraw the entire amount deposited by the petitioner Management and the respondents workers are also at liberty to claim the balance amount, if any, in accordance with law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ga

To

The Presiding Officer,
Labour Court, Salem.

+1cc to M/s.M.Sivavarthanam, Advocate, S.R.No.16783
+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.16773

W.P.No.25896 of 2014

CA(CO)
CA(07/04/2015)

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