

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8310 of 2014

&

M.P.NOs. 1 of 2014 & 1 & 2 of 2015

1 M/S.MARSHAL SONS MFG. LTD.
NO.33/34 AMBATTUR INDUSTRIAL ESTATE
AMBATTUR CHENNAI 58

2 M/S.MARSHAL SONS MFG. LTD.
MCLEOD HOUSE
NSC BOSE ROAD,
CALCUTTA 700 001. [PETITIONERS]

Vs

1 THE PRESIDING OFFICER
I ADDL. LABOUR COURT
CHENNAI 104

2 POY K. GEORGE [RESPONDENTS]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records in CP.No.450 of 2008 on the file of the I Additional Labour Court, Chennai the first Respondent herein and quash the order dated 30.01.2010.

For Petitioners : Mr.M.R.Raghavan

For Respondents : Mr.R.Jaikumar - R2
for M/s T.Fenn Waltor Associates

O R D E R

Heard Mr.M.R.Raghavan, learned counsel appearing for the petitioner/Management and Mr.R.Jaikumar, learned Counsel appearing for the second respondent/workman and with the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The challenge by the Management in this Writ Petition is to the order dated 30.01.2010, passed by the First Additional Labour Court, in C.P.No.450 of 2008, which in fact is an exparte order and the Labour Court computed the amount payable to the respondent/workman. The impugned order is only a four line order. All that the Labour Court has stated is that "Petitioner was examined as P.W.1, marked four documents as Exs.P1 to P4. Arguments heard. Claim proved and hence the Claim Petition was allowed".

3.The manner in which the Labour Court has disposed of the Claim Petition has to be deprecated. Time and again, this Court has directed the Courts subordinate to the High Court, not to dispose of exparte matters in the fashion as done in the impugned proceedings. The settled legal position is that an order devoid of reasons is illegal. Therefore, on this short ground, the impugned order is liable to be set aside.

4.The learned counsel appearing for the respondent/workman submitted that inspite of the receipt of the notices sent by the workman as well as by the Labour Court, the Management did not respond to the notices. Therefore, their conduct in not appearing before the Labour Court is deliberate and they require no indulgence.

5.Though the learned counsel for the respondent/workman does not dispute the legal principle with regard to the exparte order and the judgment, it is submitted that no indulgence need to be shown to the Management.

6.Though at the first blush, the submission made by the learned counsel for the respondent/workman appears to be acceptable, however, the impugned order cannot be allowed to stand as it is without reason, this Court is of the view that the party should be granted an opportunity to raise all objections before the Labour Court and the Labour Court should adjudicate the matter and pass orders. Since as the respondent/ workman is not able to get any benefit for all these years and as the Management did not appear before the Labour Court, the Management should be put on terms to be entitled for the indulgence to appear before the Labour Court, file their counter and contest the Claim Petition on merits.

7.In the result the Writ Petition is allowed and the impugned order is set aside and the matter is remanded to the Labour Court for fresh consideration, subject to the condition that the respondent/workman shall be permitted to withdraw a sum of Rupees Two Lakhs only from and out of the amount which is lying in deposit to the credit o C.P.No.450 of 2008. The Labour Court, before allowing the parties to contest the matter on merits, shall first permit the respondent/workman to withdraw the said amount and after withdrawal of the amount, the Labour Court shall consider the matter on merits. The petitioner/Management is entitled to file their counter

statement to the Claim Petition filed by the respondent/workman. Since Claim Petition is of the year 2008, the First Additional Labour Court, Chennai, is directed to dispose of the matter, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rpa

To

THE PRESIDING OFFICER
I ADDL. LABOUR COURT
CHENNAI 104.

+1cc to Mr.T.Senn Waltor Associates, S.R.No.21858

+1cc to Mr.M.R. Raghavan, Advocate, S.R.No.21055

RV(CO)
EU(02/05/2016)

W.P.No. 8310 of 2014

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