

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH  
AND  
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.A.Nos.1721 & 1722 of 2015

The Management of  
TTK Prestige Limited

Plot No.82-85, SIPCOT Industrial Complex,  
Hosur 635 126

rep by its Director and Secretary

... Appellant in  
both the Appeals

-Vs-

1. The Presiding Officer  
Labour Court  
Salem

2. M.Sathishkumar ... Respondents in both the Appeals

Appeals under Clause 15 of the Letters Patent, against the  
order dated 13.10.2015 made in M.P.Nos.1 & 2 of 2013 in  
W.P.No.30629 of 2012.

M.P.Nos.1 & 2 of 2013 : Petitions praying that in these  
circumstances stated therein and in the respective affidavits  
filed therewith the High Court will be pleased to,

i) Direct the 2<sup>nd</sup> Respondent herein to pay the Petitioner  
last drawn wages and other attendant benefits as contemplated  
under Section 17-B of the I.D Act 1947 and

ii) To vacate the stay granted by this Hon'ble Court in  
M.P.No.1 of 2012 in W.P.No.30629 of 2012 on 16.11.2012.

W.P.No.30629 of 2012 filed under article 226 of the Constitution  
of India, to issue a Writ of Certiorari of India, calling for  
the records of the 1<sup>st</sup> Respondent in I.D.No.106 of 2007 and quash  
its award dated 03.07.2012 and pass such further or other order.

For Appellant : Mr.S.Ravi for M/s Gupta & Ravi

For Respondents : Mr.K.V.Shanmuganathan for R2  
R1-Court

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the parties.

2. The Management of M/s TTK Prestige Limited has brought these appeals, being aggrieved by the order of the learned single Judge in directing the appellant to pay the last drawn wages under Section 17-B of the Industrial Disputes Act to the second respondent workman and also vacating the interim order of stay obtained against the award of reinstatement of the workman. The stand taken by the Management is that there is a rice mill owned by the workman and rather after the dismissal order was passed, he got the rice mill transferred in the name of his wife and even then, still the electricity connection stands in the name of the workman, for which the electricity bill, which runs to Rs.7,000/-, depicts that the workman is gainfully employed.

3. The learned counsel for the second respondent workman has submitted that the transfer of property by way of gift in the name of the workman's wife is not a proof of his gainful employment and even the electricity bill is not a proof to show that he is gainfully employed. It is purely a matter of private affairs between the workman and his wife. Only if the workman is employed elsewhere and getting a fixed income or an income, then, of course, it is a matter to be considered. Mere filing of a rejoinder or any other statement along with the electricity bill is not a proof to show that the workman is gainfully employed.

4. In our view, the workman might be having some property in his name or in his wife's name and might be getting an income. What is required for the purpose of Section 17-B is whether the workman, pending adjudication of the matter, has been working elsewhere and eking his livelihood, for which sufficient proof is required. A mere bald allegation of owning a property by the workman or his spouse is not a proof that he is in gainful employment. In these circumstances, we do not find any reason to interfere with the order of the learned single Judge directing the Management to pay the last drawn wages under Section 17-B of the Industrial Disputes Act to the workman till the disposal of the writ petition. However, since the learned counsel for the workman has no objection to stay the award of reinstatement, especially in view of the order passed by this Court to pay the last drawn wages under Section 17-B of the Industrial Disputes Act, there shall be an order of stay of operation of the award of reinstatement till the disposal of the writ petition. With this observation, both the writ appeals are disposed of accordingly. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ss

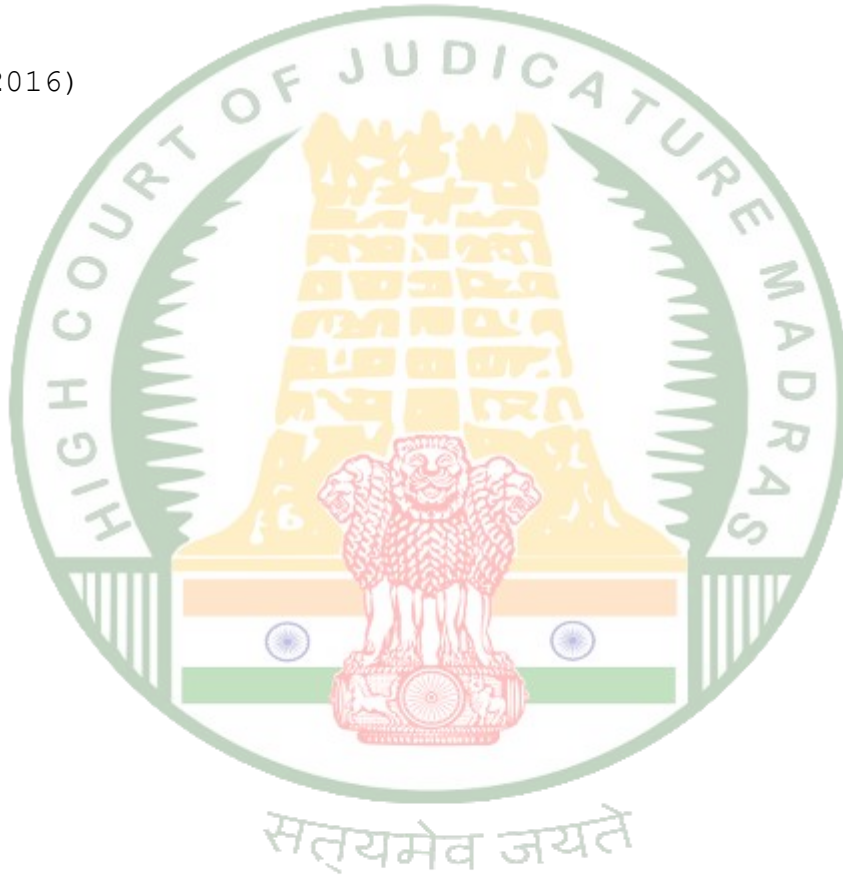
To

The Presiding Officer  
Labour Court,  
Salem.

+2cc's to M/s.Gupta & Ravi, Advocate, S.R.Nos.63567 & 63568  
+1cc to Mr.K.V.Shanmuganathan, Advocate, S.R.No.63697

W.A.Nos.1721 & 1722 of 2015

KJI (CO)  
CA(01/12/2016)



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