

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.04.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15378 of 2016

&

WMP No.13403 of 2016

The Management
M/s Kaleesuwari Refinery Pvt. Ltd.,
(rep. by its Dy.Manager- HR & IR
V.Rajakumaran) [PETITIONER]

Vs

- 1 Deputy Commissioner of Labour
(Authority under the Payment of Wages
Act, 1936)
DMS Campus, II Floor
Teynampet, Chennai 600 006.
 2. General Secretary
Chennai Ettrumathi Valaga Ooliyargal
Matrum Pothu Thozhilalargal Sangam
(Regn.No.1234)
No.15, Kannan Street, Kadaperi
Tambaram, Chennai 600 045.
- [RESPONDENTS]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of prohibition to prohibit the first respondent from proceeding with P.W.No.7 of 2011.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.J.Bala Gopal-R1 & R2
Addl.Government Pleader

O R D E R

Heard Mr.R.Prabhakaran, learned counsel appearing for the petitioner and Mr.J.Bala Gopal, learned Additional Government Pleader accepting notice for the respondents 1 & 2 and with the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The petitioner-Management has deducted wages from

its employees on the ground that they have gone on illegal strike. That deduction which was the wages for seven days has been deposited before the first respondent. Thereafter, the second respondent Union has filed an Application in P.W.No.7 of 2011 before the first respondent, requesting for release of the amount which is lying in deposit. The summons in that regard has been received by the Management to appear before them for hearing on 04.11.2015. Accordingly, the Management has appeared on the said date and filed a Memo dated 04.11.2015, stating that the Petition is not maintainable, and requested the authority to first decide the question of maintainability.

3.The learned counsel for the petitioner after elaborately referring to the factual matrix, invited the attention of this Court to the decision of the Allahabad High Court in the case of UTTAR PRADESH ROAD TRANSPORT CORPORATION v. DISTRICT JUDGE [2004 (I) LLJ 930], for the legal proposition that in the certified standing order, the workers and the second respondent Union had agreed for deduction for seven days wages for an illegal strike and when it was done by them either individually or collectively, the Management have got every right to deduct the wages, which cannot be agitated or adjudicated upon. The learned counsel further submitted that the first respondent has no jurisdiction to decide as to whether the strike is legal or illegal and that has to be decided only by the Labour Court. With these facts, the petitioner wants the Authority to take up the said issue as a preliminary issue.

4.Since this Writ Petition is disposed of at the admission stage without notice to the second respondent, no adverse orders can be passed against the second respondent at this stage. However, taking note of the fact that the petitioner has already filed a Memo before the first respondent on 04.11.2015, there will be a direction to the first respondent to consider the memo, hear the petitioner-Management as well as the second respondent Union and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitioner is closed.

Sd/-
Assistant Registrar(CS-V)

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To

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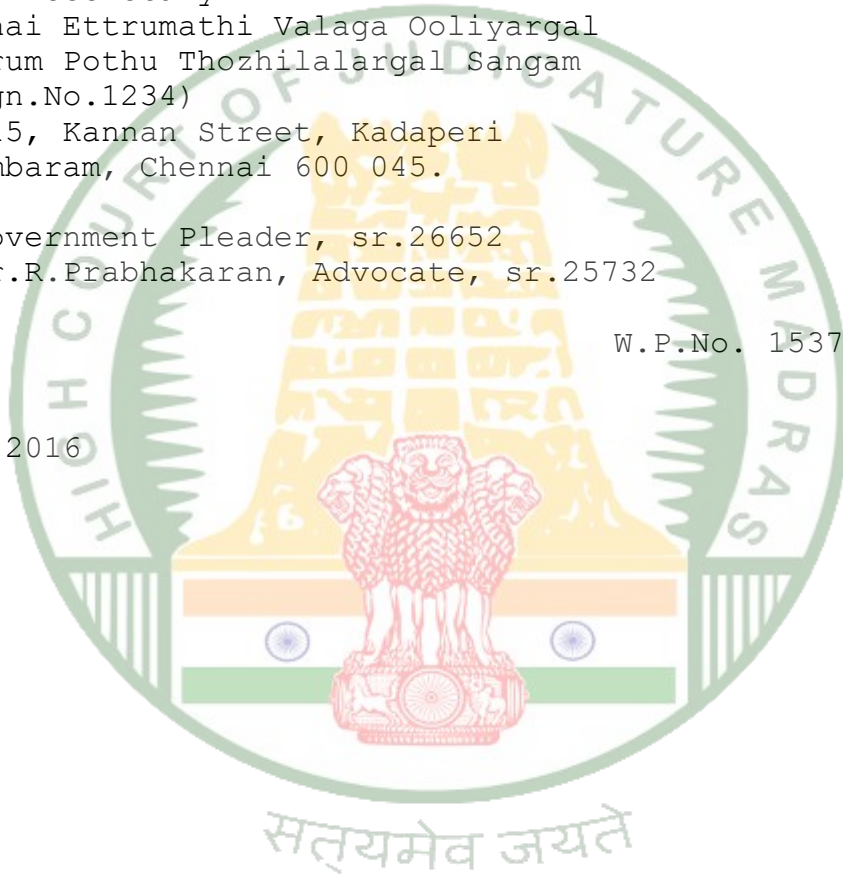
1 cc to Government Pleader, sr.26652

1 cc to Mr.R.Prabhakaran, Advocate, sr.25732

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