

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2016

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.26906 of 2015

The Manager
Delvac Pumps Private Ltd.
Thirumudivakkam
Chennai-600 044

[PETITIONER]

Vs

- 1 R.Dhandapani
- 2 The Principal Labour Court
Chennai-600 104.

[RESPONDENTS]

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari to call for the records in order dated 28th July 2015 in dismissing the E.A.No.75 of 2015 in E.P.No.63 of 2013 in ID No.610/2006 on the file of the 2nd respondent the Principal Labour Court, Chennai and quash the same

For Petitioner : Mr.S.V.Ramamurthy

For Respondent : Mr.Jaikumar - R1
for M/s T.Fennwalter Associates

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Heard Mr.S.V.Ramamurthy, learned counsel for the petitioner and Mr.Jaikumar, learned Counsel appearing for the first respondent and with their consent, the Writ Petition is taken up for final disposal.

2.The petitioner is the Management of Delvac Pumps Private Limited and the challenge in the present Writ Petition is to the order passed by the Labour Court, Chennai in E.A.No.75 of 2015 in E.P.No.63 of 2013 in I.D.No.610 o 2006, dated 28.07.2015.

3.The respondent/workmen raised the Industrial Dispute and secured an Award of reinstatement with all benefits. To execute the said Award, the workman has filed E.P.No.63 of 2013. The

Management has entered appearance in the Execution Proceedings and filed their counter statement, objecting to the Execution Petition, by stating that without filing an Application under section 33(c) (2) of the I.D.Act, the Execution Petition is not maintainable.

4.Though counter affidavit was filed in the Execution Petition, it appears that the Management did not evince any interest in those proceedings and they were not appearing before the Labour Court at the relevant point of time. It is seen that the Writ Petitioner has earlier filed a Writ Petition in W.P.No.14800 of 2013, challenging the Award of the Labour Court and the said Writ Petition has been dismissed by this Court. Thus, there is no stay of the Award passed by the Labour Court in I.D.No.610 of 2006.

5.Faced with this situation, the Management approached the Labour Court and filed an Application in E.A.No.75 of 2015 to set aside the order dated 08.05.2015, stating that it was an exparte order. The reason given in the affidavit filed in support of the Application is that one of the Director who was taking care of the legal matters had met with an accident and therefore, they could not appear before the Court on the said date viz. 08.05.2015 and prayed for setting aside the order. The Labour Court after considering the entire factual matrix pointed out that the reason assigned by the Management for not appearing before the Court is not genuine and has not been established by producing any documents. Furthermore, it has pointed out that for several hearings, the Management did not appear.

6.This Court heard the learned counsel appearing for the parties and perused the materials placed on record as well as the factual details set out by the Labour Court.

7.This Court is satisfied that the Labour Court properly exercised its jurisdiction and rejected the Petition filed by the Management to set aside the order dated 08.05.2015, in and by which the petitioner's properties have been attached. Therefore, the impugned order cannot be interfered with by this Court.

8.Accordingly, the Writ Petition fails and the same is dismissed. The Labour Court is directed to take up E.P.No.63 of 2013 and after hearing the parties, pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rpa

To

The Principal Labour Court
Chennai-600 104.

1 cc to Mr.S.V. Ramamurthy, Advocate, Sr. 11327
1 cc to M/s.T. Fennwalter Associates, Sr. 10952

W.P.No.26906 of 2015

GJ (CO)
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