

IN THE HIGH COURT OF JUDICATURE AT MADRAS

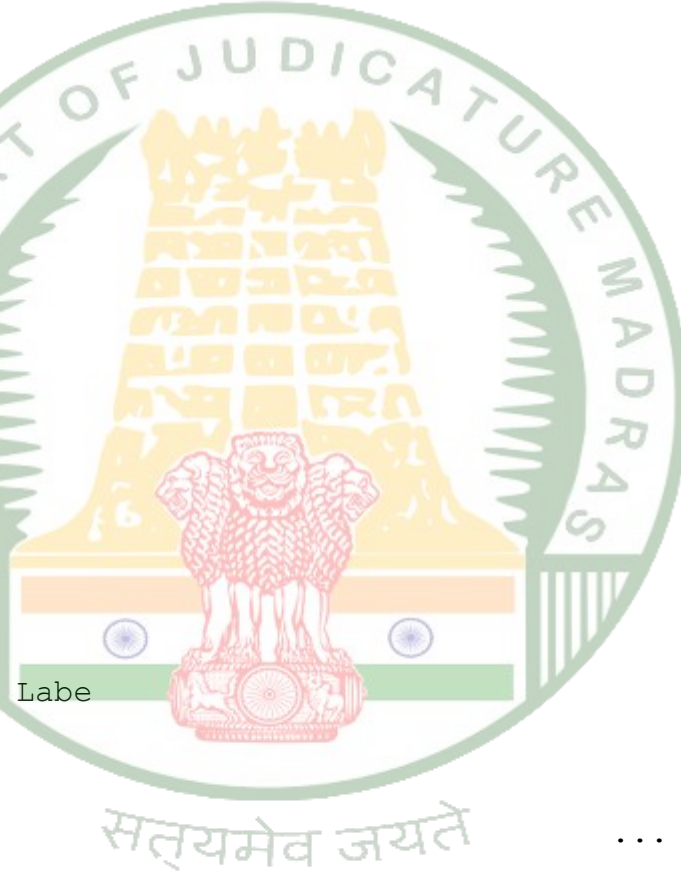
DATED: 11.01.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.30331 of 2015

1. K.Muthuvellayan
2. A.R.Kulandaivel
3. K.Palaniappan
4. K.Subramanian
5. L.M.Yadaiah
6. V.Lakshmanan
7. G.Raman
8. S.P.Murugan
9. V.Gurusamy
10. J.Jesudoss
11. K.S.Subramani
12. K.Gunasekaran
13. A.Murugesan
14. C.Pandiyan
15. V.Baskar
16. V.Muthukumar
17. K.R.Raju
18. R.Rangan
19. S.Saravanan
20. C.Murugan
21. J.Karthikeyan
22. Hussain Sarif Labe
23. D.Venkatesham
24. B.Nagarajan
25. K.Aadhiyan
26. N.Shanmugam



... Petitioners

Vs.

1. The Assistant Commissioner Labour II (Conciliation), Kuralagam, Chennai 600 108.
2. The Management of South India Corporation Ltd., rep. By its Managing Director, Rani Seethai Hall, 5th Floor, No.603, Anna Salai, Chennai 600 006.
3. M.A.M.R.Muthiah

4. Rani Meyyammai Achi (of Chettinad)
Memorial Charitable Trust,
rep. By its Trustee, Mr.M.A.M.R.Muthiah,
Rani Seethai Hall, 5th Floor,
No.603, Anna Salai, Chennai 600 006. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the first respondent to receive the returned 2k Industrial Dispute received by the petitioners against the transfer and proceed with the same in accordance with the provisions of the Industrial Disputes Act.

For Petitioners : Mr.V.Prakash,
Senior Counsel
for Mr.P.L.Ravikumar

For R1 : Mrs.P.Rajalakshmi,
Govt. Advocate

For R2 : Mr.M.S.Krishnan
Senior Counsel
for M/s.T.S.Gopalan & Co.

For R3 & R4 : Mr.Sriram Panchu,
Senior Counsel
for Mr.T.Balaji

ORDER

By consent, the Writ Petition itself is taken up for final disposal.

2. This Writ Petition is the continuation of the earlier dispute between the petitioners on the one hand and the private respondents on the other hand. In the order passed in O.S.A.No.22 of 2015, dated 16.03.2015, in pursuance of a civil dispute sought to be raised by the petitioners, the First Bench of this Court was pleased to hold as follows:

"3. During the course of the hearing of the appeal, an endeavour was made to resolve the controversy, but the final settlement in a sense could not take place. However, to a limited extent, there was agreement on one issue that the appellants are willing to work and the respondents had not issued any transfer order as alleged by them, albeit orally. We made it clear by our last order dated 04.03.2015 that in view of larger

issues inter se the management of the company, these employees cannot suffer and the salary dues outstanding from January, 2014 to February, 2015 ought not to be retained so as to pressurise these people and all these amounts of arrears being paid and communication for reporting for duty being issued, the appellants would be bound to report for duty and if they are not desirous of continuing the service, it was always open to them to terminate the arrangement of service in accordance with law and norms.

4. Learned Senior Counsel appearing for the respondents states today that he has brought cheques for the amounts due right up to February, 2015, which have been collectively handed over to the learned counsel for the appellants. Simultaneously, the communication dated 16.08.2014 had been issued by the respondents, which has been received and acknowledged by the counsel for the appellants on behalf of the appellants, also giving details of calculation and calling upon them to report at the place where the respondents seek them to work.

5. The aforesaid being the position, the learned counsel for the appellant states that all the appellants want to continue to work, they would report accordingly.

6. As far as the suit is concerned, the relief has worked itself out, the appellants have already been granted the amounts for which they have actually sued. We are not inclined to grant any interest in the situation or costs of the proceedings.

7. Needless to say that qua the relief of not denying the appellants their salaries, the appellants should be paid the amounts as per the entitlement subject to their reporting for work at the place where they have been called upon to work. There can be no other relief in the suit. The questions of law decided in the suit are left open.

8. The Original Side Appeal accordingly stands disposed of in terms of the aforesaid, leaving the parties to bear their own costs. Decree be drawn accordingly. Consequently M.P.No.1 of 2015 is closed. "

3. Alleging that the orders of transfer are bad in law and that they are passed on mala fide consideration, the petitioners approached the 1st respondent seeking to raise a dispute under section 2(k) of the Industrial Disputes Act. The said petition was returned by the 1st respondent stating that the petitioners can take action as per law under the Industrial Disputes Act. Challenging the same, the present Writ Petition has been filed.

4. Learned Senior Counsel appearing for the petitioners stated that this is a case of mala fide transfers. It is not a single person, but number of employees have filed the petition before the 1st respondent. Therefore, returning of the petition without assigning any reason is unsustainable in the eye of law. Insofar as the interim orders are concerned, it is submitted that the respondent Trust has filed a counter contrary to facts, denying the relationship of landlord and tenant.

5. Learned Government Advocate appearing for the 1st respondent, though did not file any counter, has submitted that as the petition was not maintainable, it was duly returned. After appropriate orders are issued by this Court, then, reasons would be assigned in support of the same.

6. Learned Senior Counsel appearing for the private respondents submitted that the petitioners have acted contrary to the order passed by the Division Bench referred to supra. The interim order sought for does not have any connection to the relief sought for. A private dispute is sought to be converted into a public one by trying to invoke the jurisdiction of this Court.

7. A perusal of the order under challenge would show that absolutely no reasons have been assigned. Therefore, on this score alone, this Court is inclined to set aside the same. Furthermore, the petitioners have not been heard. Hence, this Court is inclined to set aside the order impugned by giving liberty to the petitioners to represent the papers within a period of four weeks from the date of receipt of a copy of this order and on receipt of the same, the 1st respondent shall issue notice of hearing to the petitioners and thereafter, appropriate final orders will have to be passed by giving sufficient reasons in support of the decision to be arrived at on the question of maintainability. The said decision will have to be made within a period of eight weeks from the date of receipt of the papers to be represented by the petitioners.

8. Law is equally settled that no interim order obtained is independent to the main writ petition. Therefore, this Court is unwilling to go into the inter se dispute sought to be raised over the same by the petitioners on the one hand and the private respondents on the other hand. Suffice it is to state that this order is passed in the main Writ Petition. Consequently, the interim applications are closed, giving liberty to the parties to work out their remedy in the manner known to law establishing their case, if so advised.

This Writ Petition is disposed of accordingly. No costs.

sd/-

Assistant Registrar (Cs-IV)

/TRUE COPY/

Sub-Assistant Registrar

aeb

To :

The Assistant Commissioner Labour II
(Conciliation), Kuralagam,
Chennai 600 108.

+1 CC to M/s.T.S.Gopalan & Co Advocate. SR.NO. 1874

+1 CC to MR.K.Sudalai Kannu Advocate. SR.NO. 2099

+1 CC to Govt.Pleader. SR.NO. 2266

W.P.No.30331 of 2015

CO-PA

JD 28/01/2016

सत्यमेव जयते

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