

In the High Court of Judicature at Madras

Dated : 05.1.2016

Coram

The Honourable Mr. Justice T.S.SIVAGNANAM

W.P.No.2 of 2016 and MP.No.1 of 2016

M/s.J.Kandagiri Spinning Mills
Ltd., Unit-I, rep.by its Chairman
& Managing Director R.Selvarajan
Salem-16 ...Petitioner

Vs

- 1.The Recovery Officer, Office of the
Recovery Officer (Salem), Employees'
State Insurance Corporation, No.39/57,
Theerthamalai Vaniga Valagam,
Three Roads, Salem-636 009.
- 2.The Presiding Officer, Labour Court,
Salem. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in proceedings No.SLM/RECY/EC-15/63-00-009857-000-0101, quash its proceedings dated 10.12.2015 and consequentially forbear the first respondent from initiating recovery proceedings against the petitioner till the disposal of the writ petition.

For Petitioner : Mr.S.Ravindran
For Respondent-1 : Mr.G.Bharatwaj

ORDER

The petitioner, which is a spinning mill, is aggrieved by the summons issued by the first respondent under Rule 83 of the Second Schedule to the Income Tax Act, 1961 for recovery of its dues payable by the petitioner under the provisions of the Employees State Insurance Act, 1948.

2. The petitioner preferred an appeal before the Labour Court, Salem as against the order passed by the Deputy Director under Section 45-A of the said Act dated 29.5.2013. It is not in dispute that the said appeal has been dismissed by the Labour

Court, Salem by order dated 28.7.2015. The petitioner is stated to have filed a copy application for furnishing a certified copy of the order immediately on the same day i.e. 28.7.2015 and it is stated that the Registry of the Labour Court, Salem is yet to issue the certified copy of the order. In the meantime, the petitioner has been threatened with the impugned summons, which necessitated the petitioner to approach this Court challenging the said summons.

3. The learned counsel for the petitioner mentioned before this Court on 4.1.2016 i.e yesterday, requesting this Court to hear this writ petition urgently as a lunch motion case on 4.1.2016 itself. This Court directed the learned counsel for the petitioner to serve advance notice on the learned Standing Counsel for the Employees' State Insurance Corporation and directed the matter to be listed for admission today.

4. As the petitioner has a remedy of further appeal before this Court as against the order of the Labour Court, Salem dated 28.7.2015, in the interregnum, coercive action should not be taken against the petitioner, since the certified copy of the order dated 28.7.2015 has not yet been furnished to the petitioner.

5. In the light of the above, the writ petition is disposed of with a direction to the Labour Court, Salem to furnish a certified copy of the order dated 28.7.2015 in E.S.I.O.P.No.5 of 2003 within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the petitioner shall file the appeal within the period of limitation provided under the Act and seek appropriate interim protection. Till such filing of an appeal before this Court, the impugned proceedings shall not be enforced and shall be kept in abeyance. No costs. Consequently, the above MP is closed.

-s/d-
सत्यमेव जयते Assistant Registrar

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Sub-Assistant Registrar

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To

1.The Recovery Officer,
Office of the Recovery Officer (Salem), Employees'
State Insurance Corporation,
No.39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem-9.

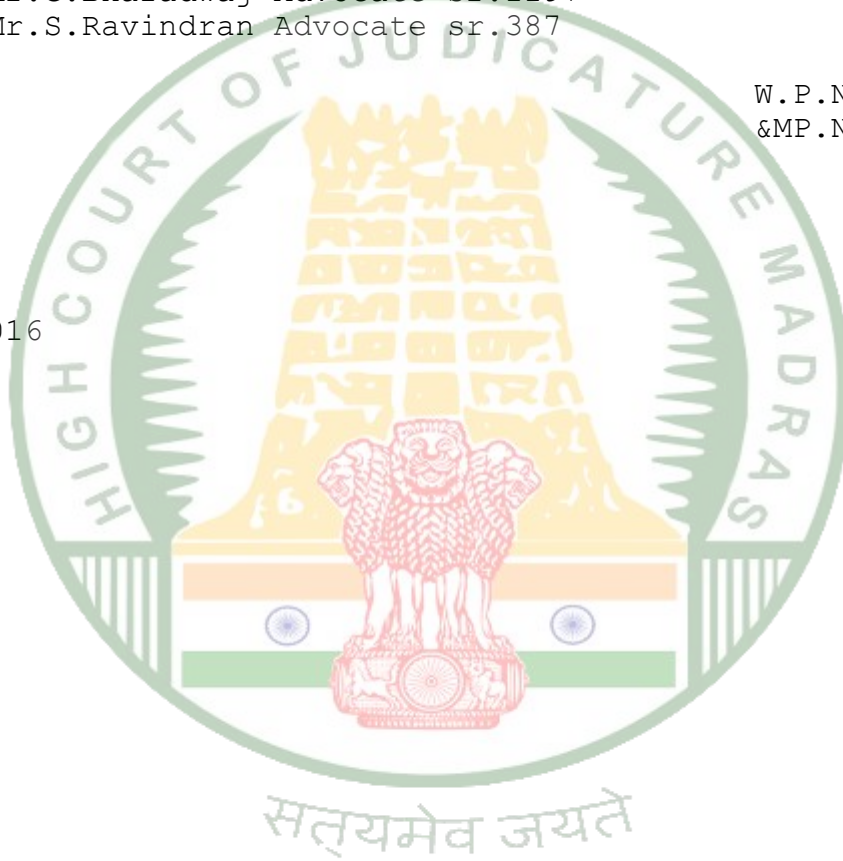
2.The Presiding Officer, Labour Court, Salem.

+1 cc to Mr.G.Bharadwaj Advocate sr.1197

+1 cc to Mr.S.Ravindran Advocate sr.387

W.P.No.2 of 2016
&MP.No.1 of 2016

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