

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21682 of 2013 &

M.P.Nos.1 of 2013 & 1 of 2014

THE MANAGEMENT
VASAMBADI ESTATE
YERCAUD 636 601.

[PETITIONER]

Vs

1 S.CHINNAPILLAI

2 S.CHINNARASAMY

3 C.BAKKIAM

4 V.CHINNALAKSHMI

5 R.MUTHUMMAL

6 M.KANDAYEE

7 R.VIJAYA

8 R.VASANTHA

9 P.VELLAIMMAL

10 K.POONJALAI

11 P.MOYYAN

12 M.ALAMELU

13 M.PERIAPILLAI

14 R.ANGAMMAL

15 THE PRESIDING OFFICER

LABOUR COURT, SALEM.

[RESPONDENTS]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records relating to the order passed by the Labour Court, Salem (Camp at Yercaud) in I.A. No.87 of 2013 in C.P.No.73 of 2009 dt 14.5.2013 quash the same.

For Petitioner : Mr.M.Sivavarthanan

For Respondents: Mr.K.M.Ramesh 1 to 14

O R D E R

Heard Mr.M.Sivavarthanan, learned Counsel appearing for the petitioner, Mr.K.M.Ramesh, learned counsel appearing for respondents 1 to 14 and with the consent of the counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.The order impugned in this Writ Petition is an order in an Interlocutory Application in I.A.No.87 of 2013 in C.P.No.73 of 2009 dated 14.05.2013, on the file of the Labour Court, Salem, during the camp sitting at Yearcaud.

3.The respondents/workmen filed C.P.No.73 of 2009, claiming payment of interest at the rate of 12% p.a. for the delayed payment of minimum wages and they had claimed a total amount of Rs.3,23,929.56. The details of the individual claims in respect of all the workmen have been furnished as an annexure along with the Computation Petition. Though counter affidavit was filed in the Computation Petition by the Management, subsequently, when the matter was taken up, they have not appeared, resulting in an exparte order. The Management filed a Petition to condone the delay in filing a Petition to set aside the exparte order and to consequently set aside the exparte order. Since the Management was represented by an Advocate, the workmen who were represented through their Secretary of their Labour Union, filed an Interlocutory Application in I.A.No.55 of 2010, stating that the Advocate of the Management should not be permitted to appear and his Vakalath should be revoked. The said Interlocutory Application was hotly contested, counter affidavit was filed by the Management and rejoinder was filed by the Workmen. However, the said I.A.No.55 of 2010 was pending. When the Labour Court had Camp Sitting at Yercaud, the workmen filed another Interlocutory Application in I.A.No.87 of 2013, for same very relief as that of in I.A.No.55 of 2010. In the said Interlocutory Application, an endorsement has been made by Manager of the Management that the Interlocutory Application filed by the workman may be allowed. Based on such endorsement, the Application in I.A.No.87 of 2013 was allowed and the vakalat of the counsel for the Management was revoked. The said order dated 14.05.2013, is impugned in this Writ Petition.

4.Heard the learned counsel for the parties and perused the materials placed on record.

5.In my view, the Computation Petition which was filed in 2009 had been grossly delayed on account of the hyper technical stand taken by the workmen. The workmen were represented by an authorised representative of the Union. The Management was entitled to engage a Lawyer with the leave of the Court and it

appears that in I.A.No.95 of 2013, the Management was represented by a Lawyer. Whiles, it is not known as to why the Union took up an objection and filed I.A.No.55 of 2010 which was contested and was pending and for the very same relief when there was a Camp Sitting of the Court in Yearcaud, another Interlocutory Application has been filed in I.A.No.87 of 2013.

6.If I.A.No.55 of 2010 was not disposed of, then a second Interlocutory Application for the same relief was not maintainable. Therefore, without going into the question as to whether the employee/Manager of the Management was authorised to give no objection for the relief or not, it is held that I.A.No.87 of 2013, being the second Interlocutory Application for the same relief when the earlier Interlocutory Application was pending, is not maintainable. Accordingly, I.A.No.87 of 2013, has to be dismissed as not maintainable, consequently, the impugned order has to be set aside.

7.This leaves us with the position at the stage of setting aside of the exparte order. It is not in dispute that the delay in filing of the Petition has been condoned by the Labour Court. Considering the fact that the Computation Petition is of the year 2009 and on account of the fact that at the instance of the workmen themselves, the matter has been delayed for all these years, both parties should approach the Labour Court and take an order on merits.

8.Accordingly, the Writ Petition is allowed and the impugned order is set aside and I.A.No.87/2013 is dismissed. The exparte order passed in C.P.No.73 of 2009 dated 14.05.2013, is set aside and the matter is remanded to the file of the Labour Court, Salem, with a direction to the Labour Court to consider the matter expeditiously by permitting the petitioner/Management to engage the Lawyer and if the respondents/workmen also require the assistance of the Lawyer, they may do so. Both parties shall contest the matter on merits and take an order from the Labour Court. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

rpa

To
THE PRESIDING OFFICER
LABOUR COURT, SALEM.

1 cc to Mr.M. Sivavarathanan, Advocate, Sr. 18291
1 cc to Mr.K.M. Ramesh, Advocate, Sr. 18264

W.P.No. 21682 of 2013CA (CO)