

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 19.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**Tr.C.M.P(MD)No.575 of 2016****and****C.M.P(MD)No.12145 of 2016**

The Management,
Hari & Co., represented by
J.M.Arun,
No.4/29E, Madurai Bypass Road,
Thoothukudi - 628 006,
Thoothukudi District.

... Petitioner

Vs.

S.Chellathurai

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure to withdraw the Claim Petition No.24 of 2016 from the file of the Labour Court, Tirunelveli, Camp at Thoothukudi, and transfer the same to any other Labour Court.

For Petitioner

: Mr.S.Sethuraman

ORDER

The petitioner is the respondent in the Claim Petition No.24 of 2016 which has been filed by the respondent herein seeking enhanced arrears. During the pendency of the said petition, the petitioner has taken out an application to decide about the status of the respondent as to whether he is a contract employee receiving retainer salary or not, as a preliminary issue.

2. Though the said application was sought to be presented before the Presiding Officer, Labour Court, in the Open Court on 14.12.2016, the same was refused to be received. Therefore, the petitioner has come before this Court seeking transfer.

3. Heard the learned Counsel for the petitioner.

4. Since this Court is going to direct the Labour Court to receive the application and decide about its maintainability, there is no necessity to order notice to the respondent as no prejudice would be caused to him.



5. Considering the facts and circumstances of the case, this Court is of the opinion that the Presiding Officer, Labour Court, cannot refuse to receive the said application and accordingly, instead of passing orders on the merits of this petition, this Court only directs the Presiding Officer, Labour Court, Tirunelveli, Camp at Thoothukudi, to receive the application filed by the respondent and decide about its maintainability by passing a speaking order.

6. Therefore, the petitioner is directed to present the above said application before the Labour Court, Tirunelveli, Camp at Thoothukudi, on 21.12.2016 and the Presiding Officer, Labour Court, is directed to receive the same and if the Labour Court is of the opinion that the said application is maintainable, then the Court is directed to number the said application and order notice to the respondent therein and decide the matter on merits. If otherwise, the Labour Court is directed to pass a speaking order as to how the said application is not maintainable within a period of two weeks thereafter.

7. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of as above. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

/True Copy/

Sub Assistant Registrar

rsb

To

The Presiding Officer, The Labour Court,
Tirunelveli, Camp at Thoothukudi.

+1CC to Mr.S.Sethuraman, Advocate Sr.No.81637

GJM/CK/SAR-I-19.12.16-2p-3C

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