

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2017

CORAM

The HON'BLE MR. JUSTICE M.M. SUNDRESH

W.P.Nos.8312 to 8317 of 2017

and

W.M.P. Nos. 9098 to 9103 of 2017

W.P.No.8312 of 2017

L. Lakshmanan .. Petitioner
N.Perumal .. Petitioner in WP 8313/2017
Ammasi .. Petitioner in WP 8314/2017
N.Ellappan .. Petitioner in WP 8315/2017
P.Vadivel .. Petitioner in WP 8316/2017
P.Perumal .. Petitioner in WP 8317/2017

vs.

1. The Presiding Officer,
Labour Court,
Salem.
2. The Management
Chief Engineer,
Highways and Rural Works,
Chepauk, Chennai - 600 005.
3. The Divisional Engineer,
Highways Department,
Dharmapuri.
4. The Assistant Engineer,
Highways Department, Ponnagaram
Dharmapuri

.. Respondents

Prayer in W.P.No.8312 of 2017: Petition filed under Article 226 of The Constitution of India praying to issue writ of certiorari to call for the records pertaining to the order passed by the Hon'ble 1st respondent dated 09.11.2016 made in I.A.No. 140 of 2016 in I.A.No.98 of 2011 in I.D. No. 134 of 2008 (in WP 8312/2017), I.A. No.143/2016 in I.A.No.101/2011 in I.D.No.137/2008 (in WP 8313/2017), I.A.139/2016 in I.A.No.97/2011 in I.D.No.133/2008 (in Wp 8314/2017), I.A.No.138/2016 in I.A.No.96/2011 in I.D.No.132/2008 (in WP 8315/2017), in I.A.No.142/16 in I.A.No.100/2011 in

I.D.No.136/2008(in WP 8316/2017), I.A.No.141/2016 in I.A.No.99/2011 in I.D.No.135/2008(in WP 8317/2017)respectively, and quash the same as functus officio.

For Petitioner .. Mr. R. Marudhachalamurthy
in all the W.Ps

For Respondents .. R1 - Court in all the W.Ps
Mr.S.Diwakar,
Spl. Govt. Pleader for R2 to R4
in all the W.Ps

COMMON ORDER

The petitioners in all these writ petitions raised disputes before the first respondent. Respondents 2 to 4 were set exparte earlier. Thereafter, applications have been filed, seeking to condone the delay in filing the applications to set aside the exparte award passed. Those applications were allowed on terms by directing the petitioners to pay a sum of Rs.400/- each. Unfortunately, the said condition was not complied with. It appears, thereafter, the petitioners filed execution petitions. At that point of time, applications have been filed by respondents 2 to 4 seeking extension of time for complying with the orders passed. In the meanwhile, for non-compliance, the earlier applications were closed.

2.The first respondent, after going through the contentions raised, allowed the applications filed subject to the condition that respondents 2 to 4 will have to pay a sum of Rs.2,000/- to the petitioners by way of costs. Challenging the same, the present writ petitions have been filed.

3.Learned counsel appearing for the petitioners would submit that there is a delay at every stage. No sufficient cause has been shown. The first respondent has become functus officio after the dismissal of the earlier applications filed. Applications have been filed after the filing of execution petitions. Therefore, the writ petitions will have to be entertained and allowed.

4.This Court is not inclined to entertain the writ petitions. The first respondent has exercised its judicial discretion by allowing the applications on terms. Such a discretion is not to be interfered with in exercise of power under Article 226 of The Constitution of India. After all, respondents 2 to 4 have been given an opportunity to contest the case on merits. In compliance with the orders passed which are under challenge, the cost as directed has been paid. Procedural law being a hand made of justice is not meant to destroy the

rights of the parties.

5. Technicality shall not stand in the way of rendering justice. The first respondent has got ample power to condone the delay. It is not as if the first respondent has become functus officio. The power to extend the time is always available as held by this Court in Pakkiammal Vs. Anaiappan (2003 CTC 228) and Kumarasamy and another Vs. Palaniyammal (2015 1 CTC 271).

6. In such view of the matter, this Court is of the view that there is no error in the discretion exercised by the first respondent in affording one more opportunity to the second respondent to contest the matter on merits. As recorded above, respondents 2 to 4 have complied with the conditional order passed. Therefore, this Court does not find any error warranting interference. Accordingly, these writ petitions shall stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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TO

1. The Presiding Officer,
Labour Court,
Salem.
2. The Management
Chief Engineer,
Highways and Rural Works,
Chepauk, Chennai - 600 005.
3. The Divisional Engineer,
Highways Department,
Dharmapuri.
4. The Assistant Engineer,
Highways Department, Ponnagaram
Dharmapuri

+6cc to Mr.R.Marudhachalamurthy, Advocate SR.No.21484 to 21489

W.P.No.8312 to 8317 of 2017

EV(CO)
GN(19/04/2017)