

In the High Court of Judicature at Madras

Dated: 26.07.2017

Coram

The Honourable Mr.JUSTICE HULUVADI G.RAMESH
and
The Honourable Dr.JUSTICE G.JAYACHANDRAN

W.A.No.739 of 2017
and C.M.P.No.10153 of 2017

The Sharda Motor Industries Limited
SIPCOT Industrial Park,
Irugattukottai,
Sriperumbattur Taluk,
Kanchipuram.

..... Appellant/3rd Respondent
Vs.

1. United Labour Federation,
Regn. No.2657/CNI
represented by its Vice President,
No.149, IV floor, CJ Complex,
Thambuchetty Street,
Chennai - 600 001.
2. The Government of Tamil Nadu,
rep. by its Principal Secretary in charge,
Department of Labour and employment,
Chennai - 600 009.
3. The Assistant Commissioner of Labour - I,
Sriperumbudur, Kancheepuram.

..... Respondents/Petitioner/
Respondents 1 & 2

सत्यमेव जयते

APPEAL filed under Clause 15 of the Letters Patent against the order dated 05.04.2017 made in W.P.No.44203 of 2016 on the file of this Court filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respodnent in connection with G.O(D) No.399, Labour and Employment (A2) Department dated 03.09.2014 and quash the same and further direct the first respondent state of Tamil Nadu to referee the Industrial Dispute raised by the Petitioner Union dated 01.01.2014 for adjuduation and issue such further or appropriate orders or directions.

For Appellant : Mr.Manohar Gupta
for M/s.Gupta and Ravi
For Respondents : Mr.V.Prakash, S.C.
for Mr.K.Sudalaikkannu - R1
Mr.R.Prathap Kumar, AGP - R2

J U D G M E N T

(Judgment of the Court was delivered by HULUVADI G.RAMESH,J.)

1. This Writ Appeal is filed challenging the order dated 05.04.2017, passed in W.P.No.44203 of 2016, whereby, the learned single Judge, while setting aside the impugned order, directed the first respondent/State Government to make a reference on the issues raised by the petitioner/first respondent.

2. The facts in brief are as follows:

The first respondent herein, who is the petitioner in the Writ Petition, raised a dispute against the appellant - management before the Assistant Commissioner of Labour. In the said dispute, the first respondent - union had raised three issues - i) sudden termination of the employment of 60 workmen belonging to the first respondent - union, ii) removal of parts from the premises of the factory and iii) the consequential employment of labour from outside.

3. The said reference was rejected by the Assistant Commissioner of Labour on the ground that they being contract employees, they have to work out their rights under the Contract Labour (Regulation and Abolition) Act, 1970.

4. Aggrieved by the said rejection of reference, the first respondent - union has moved this Court by way of a Writ Petition.

5. The said Writ Petition was allowed by the learned single Judge on the ground that the State Government was duty bound to make a reference though on a prima facie consideration and could not pre-judge the issue by taking the role of the Labour Court, as the dispute sought to be raised could not be treated as irrelevant. Accordingly, the learned single Judge set aside the order and directed the State Government to make a reference on the issues raised by the first respondent - union.

6. Not satisfied with the order of the learned single Judge, the appellant/Management has filed the instant appeal.

7. We have heard the learned counsel for the appellant and the learned counsel for the respondents and perused the records placed before this Court.

8. On a perusal of the impugned order, it is seen that without impleading the contractor, the matter was taken up for reference. Therefore, without there being a necessary party, on whose behalf, the petitioner was before this Court, unless there exists a relationship between the management and the employee directly or indirectly, the matter cannot be adjudicated for want of necessary parties.

9. Accordingly, the appeal is disposed of, directing the appellant to implead the contractor before the Labour Court. Consequently, the connected Miscellaneous Petition is closed. However, there will be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

2. The Principal Secretary incharge
Department of Labour and employment,
Chennai - 600 009.
3. The Assistant Commissioner of Labour - I,
Sriperumbudur, Kancheepuram.

+1 cc to M/s.K.Sudalai Kannu Advocate sr 53528
+1 cc to M/s.Gupta & Ravi Advocate sr 52916
+1 cc to the Government Pleader sr 53339

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