



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Fourteenth day of June Two Thousand Seventeen

WEB COPY

PRESENT

The Hon`ble Mr.Justice T.S.SIVAGNANAM
AND
The Hon`ble Mr.Justice P.VELMURUGAN

WMP(MD) No.5827 of 2017
IN
WP(MD) No.1619 of 2006

P.BALASUBRAMANIAN, ... PETITIONER / PETITIONER

Vs

1 THE CHAIRMAN AND MANAGING DIRECTOR,
M/S. TAMIL NADU NEWS PRINT & PAPER LIMITED,
CORPORATE OFFICE,
NO. 67, MOUNT ROAD,
GUINDY, CHENNAI-32.

2 THE GENERAL MANAGER (F & A),
M/S. TAMIL NADU NEWS PRINT & PAPER LIMITED,
KAGITHAPURAM, KARUR, KARUR DISTRICT.

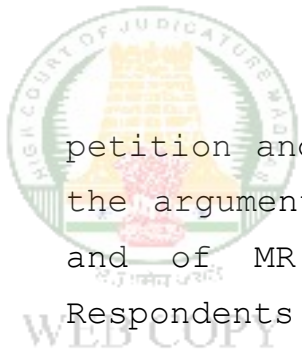
3 THE DIRECTOR (OPERATIONS),
M/S. TAMIL NADU NEWS PRINT & PAPER LIMITED,
KAGITHAPURAM,
KARUR TALUK AND DISTRICT.

... RESPONDENTS / RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a direction directing the 1st Respondent herein to settle/ refund all of my legal dues from Accounts Department of the company M/s.Tamil Nadu Newsprint and Papers Limited, as on 13.09.2005 with 12% interest per annum to the said amount to till date, within 7days of the receipt of the Honble High Court order in this petition under the provisional of law U/A 226 of Constitution of India, 1950 and in the interest of fair administration of law.

<https://hservices.ecourts.gov.in/hcservices/>

ORDER : This petition coming on for orders upon perusing the



petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.P.BALASUBRAMANIYAN, Advocate for the petitioner and of MR.ANAND GOPALAN, for MR.T.S.GOPALAN on behalf of the Respondents the court made the following order:-

Order of the Court was made by **T.S.SIVAGNANAM, J.**

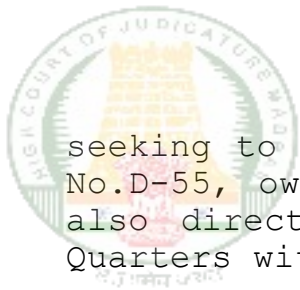
Heard Mr.P.Balasubramaniyan, appearing in person and Mr.Anand Gopalan, learned counsel representing M/s.T.S.Gopalan Associates for the respondents.

2. This Miscellaneous Petition has been filed for a direction to the first respondent to settle/refund the legal dues payable to the petitioner together with interest at the rate of 12% per annum within a stipulated time.

3. The petitioner was an employee of the respondent management. He was dismissed from service, by order dated 13.09.2005. The petitioner has challenged the said order by filing W.P.(MD).No.1619 of 2006, which is still pending. During the pendency of the said Writ Petition, the present Miscellaneous Petition has been filed to issue a direction to the first respondent to settle the dues. The petitioner has filed an application before the respondents requesting for settlement of his entire provident fund amounts by crediting the same to his bank account, which is a joint account, in the name of the petitioner and one Mr.B.Kanagasabapathy. The petitioner was informed that the provident fund amount cannot be credited to the joint account and it can be credited only to the individual account of the employee. Therefore, the petitioner submitted a fresh application to the authorities, on 18.04.2017, after opening an individual account in the Indian Bank, High Court Branch, Madurai.

4. When the said application was pending consideration, the petitioner has filed a petition under the Right to Information Act, 2005, dated 29.03.2017, wherein he has asked for two queries, viz., (1) what are all the kinds of legal dues to be collected by the accounts department of the Company as on 13.09.2005?, the dues are Provident Fund [PF], Gratuity, Leave encashment and salary for 12 days. (2). The quantum of legal dues in each kind as of now, [the date of receipt of this application]. The management, by a reply dated 29.04.2017, has stated that the Provident Fund dues are Rs.5,36,124/-, Gratuity Rs.3,40,830/-, leave encashment Rs.55,266.40, and 12 days salary Rs.11,816.41. It was further stated that the company quarters has not been vacated by the petitioner and the rent for the quarters, as per the companies policy, will be adjusted from the amounts specified above.

Accordingly, to the respondent management, the quarters has been kept locked from 14.09.2005 onwards and as-on-date, the petitioner has to pay a sum of Rs.12,39,381/- towards rent arrears. The respondent management moved a petition before the Judicial Magistrate Court No.II, Karur, under Section 630 of the Companies Act, 1956,



seeking to punish the petitioner for wrongfully withholding Quarters No.D-55, owned by the complainant, by imposing appropriate fine and also direct him to vacate and surrender vacant possession of the Quarters within a time frame.

6. The petitioner appearing in person would admit that he has been contesting the said Criminal Case by contending that the complaint filed by the respondent management is not maintainable, the power of attorney executed in favour of the person, who presented the complaint, is not valid and the Court of Judicial Magistrate No.II, Karur, has no jurisdiction to try the offence.

7. Thus, from the above facts, it is crystal clear that it is the Criminal Court, which has to decide as to whether the petitioner is unlawfully occupying the quarters, whether a direction should be issued to vacate and hand over the possession of the quarters and whether the petitioner should be imposed with fine.

8. The petitioner appearing in person has drawn the attention of this Court to the order passed in CrI.OP(MD).No.3579 of 2006, dated 27.06.2007. The said Criminal Original Petition was filed under Section 482 of the Code of Criminal Procedure to quash the criminal complaint in C.C.No.102 of 2006, on the file of the Judicial Magistrate Court, Karur, filed by the respondent management under Section 630 of the Companies Act, 1956. The petitioner, by referring to Paragraph Nos.7, 8 and 9 of the order, would submit that the Criminal Court has observed that there is no question of evicting the petitioner from the quarters, as he has challenged the order of termination.

9. On a careful reading of the order dated 27.06.2007 made in CrI.OP(MD).No.3579 of 2006, more particularly, Paragraph Nos.7, 8 and 9 of the order, we find that those are all the contentions raised by the petitioner, which have been noted by the Court. However, the Court ultimately dismissed the Criminal Original Petition by observing that at the stage of examination, under Section 313 of the Code of Criminal Procedure, it is not legally permissible to quash the complaint. Thus, the issue would be as to whether the respondent management are entitled to recover the arrears of rent from the petitioner. This issue cannot be decided in this Miscellaneous Petition, as the matter is now seized of by the Judicial Magistrate Court, No.II, Karur, wherein the petitioner has taken several defences, including the jurisdiction of the Court to try the case. In the interregnum, by way of interim direction, this Court would not be justified in directing the respondent management to settle the legal dues, which have been mentioned in the letter dated 29.04.2017, wherein the petitioner has been clearly intimated that the rent for the quarters would be adjusted from the amount specified in the said letter. If the contention of the respondent is correct and the petitioner has to pay a sum of Rs.12,39,381/- towards rent arrears and if it is adjusted from the legal dues, then, nothing remains to be paid to the petitioner by the respondent management. However, we do not wish to express any opinion on the said issue, as it would affect the rights of the parties in the criminal case, which is

pending before the Judicial Magistrate Court No.II, Karur.

10. For the above-mentioned reasons, we are unable to grant the relief sought for by the petitioner in this Miscellaneous Petition. Accordingly, the Miscellaneous Petition is dismissed. However, the dismissal of the petition will not, in any way, prejudice the rights of the petitioner to agitate the issues before the Court of Judicial Magistrate No.II, Karur.

sd/-

14/06/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE CHAIRMAN AND MANAGING DIRECTOR,
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- 3 THE DIRECTOR (OPERATIONS),
M/S. TAMIL NADU NEWS PRINT & PAPER LIMITED,
KAGITHAPURAM,
KARUR TALUK AND DISTRICT.

+1. C.C. to M/S.P.MALINI Advocate SR.No.24162

+3 CCs to M/R.P.BALASUBRAMANIAN ,Advocate, SR.NO:24095

ORDER

IN

WMP(MD) No.5827 of 2017

IN

WP(MD) No.1619 of 2006

Date :14/06/2017