

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 34423 of 2011

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the second respondent in entertaining the application of the third respondent against the petitioner for conciliation, is totally without jurisdiction, null, void and arbitrary; and consequently to declare Lr.No.L1/ 10898/ 2011 dated 03.12.2011 as illegal and improper.

2) The averments in the affidavit filed in support of the writ petition would show that the petitioner society was registered under the Andhra Pradesh Public Societies Registration Act, 1350 F with registration No.46/ 1979. The petitioner association was looking after the welfare of its members and there are number of branches in the petitioner firm dealing with Producers, distributors, exhibitors, studios and technicians. It is stated that whenever a dispute arises between the members of the association, the Chamber will refer the matter to the committee and after a thorough enquiry, the committee will pass an award. After passing the award, the same will be placed before the executive committee which will pass appropriate resolution for implementation of the award. It is stated that one producer M.V.Murali Krishna under the banner Sri Venkataramana Productions made complaint to the petitioner chamber against the fourth respondent stating that fourth respondent has sold remake

rights of a Kannada film to him for making the film in Telugu language and paid substantial amount towards advance. The same film rights was infringed by the fourth respondent as the same story was given to producer of the film Vijayendravarma and thereby he sustained huge loss. Hence requested to take action against fourth respondent. The matter was placed before the Committee, who passed a resolution referring the matter to the Tribunal committee to resolve the same within 15 days or otherwise the matter can be taken up by the Executive Committee. The relevant portion of the order is as under:

“Sri Vijayendra Prasad is therefore, requested to arrange a sum of Rs.35.00 lakhs to this Film Chamber in full and final settlement of the claim of Sri M.V.Muralikrishna in respect of the film “VEERA”.”

3) Challenging the same, the third respondent herein filed an application before the second respondent seeking appropriate action. By an order, dated 03.12.2011, the second respondent passed the following order:

“The decision of the A.P.Film Chambers of Committee to impose penalty of RS.35. lakhs on 29.06.2011 and on 26.09.2011 to impose non-cooperation on him is unilateral decision will attract the following provisions.

- (1) Section 8 of the Payment of Wages Act, 1936 and Rule 14 of A.P.Payment of Wages Rules, 1937
- (2) Section 2 (m) read with the Fifth Schedule on unfair labour practices under the Industrial Disputes Act, 1947.

Therefore, you are requested to withdraw the decision taken by the A.P.Film Chamber of Commerce on 29.06.2011 to impose penalty of Rs.35 lakhs on Vijayendra Prasad, Story Writer and also on 26.09.2011 to impose non-co-operation and report compliance by 08.12.2011 failing which necessary action will be taken against you under the law for violation of above provisions.”

4) Questioning the said order on the ground of lack of jurisdiction, the present writ petition came to be filed.

5) Learned counsel for the petitioner mainly submits that as there is no employer and employee relationship the second respondent erred in entertaining the application. He submits that aggrieved person, who is fourth respondent, has not preferred any revision before the appropriate authority. It is urged that the third respondent, who has nothing to do with the dispute, preferred the appeal.

6) On the other hand, learned counsel for the fourth respondent though tried to support the impugned orders, submits that the order came to be passed without jurisdiction. He further submits that the fourth respondent has a right of appeal and he may be directed to avail the said remedy.

7) As seen from the record, there is no employer and employee relationship between the petitioner and fourth respondent and M.V.Murali Krishna. Such being the position, the second respondent could not have entertained the application and

consequently direct the petitioner to withdraw the penalty imposed, failing which necessary action will be taken for violation of the provisions. Moreover, the aggrieved person, who is the fourth respondent, has not preferred any application and the third respondent, who is no way concerned with the dispute, filed the application, which was entertained by the second respondent. In the absence of any relationship between the parties the question of entertaining application and passing impugned order appears to be illegal and improper.

8) Having regard to the above, the order under challenge is *set aside* giving liberty to the fourth respondent to avail the remedies available under law, in which event the same shall be dealt with uninfluenced by the findings and the observations made in this writ petition. Accordingly, the writ petition is disposed of.

9) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

27.02.2017
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