

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 01-08-2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WRIT APPEAL No.703 OF 2018

1.S.Sivagnanam
2.A.Muruganandam
3.S.Arjunan
4.T.V.Dharanipathy
5.V.Govindaraju
6.Vijayalakshmi Vasudevan

.... Appellants/Petitioners/3rd Party

-vs-

1.The Workmen,
represented by the Secretary,
India Radiators Employees' Union,
(Regn.No.4/CPT),
Puzhal,
Chennai-600 066.

... 1st Respondent/1st Respondent/Petitioner

2.The Special Deputy Commissioner of Labour,
4th Floor, Labour Welfare Building,
DMS Compound,
Chennai - 600 006.

... 2nd Respondent/2nd Respondent/1st Respondent

3.The Management,
India Radiators Ltd.,
Puzhal,
Chennai - 600 066.

.. 3rd Respondent/3rd Respondent/2nd Respondent

Prayer:

Writ Appeal filed under Clause 15 of the Letters Patent,
against the order dated 19.02.2018, passed in W.M.P.No.3720 of
2018 in W.P.No.32897 of 2017 on the file of this Court.

Prayer WMP.No.3720/18 in WP.No.3720/2018:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High court will be pleased to grant permission to leave classification petition to file in W.P.32897 of 2017 Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus Directing the 1st Respondent herein to initiate conciliation proceedings and subscribe to the Settlement dated 22.11.2017 by converting the same under Section 12(3) of the Industrial Disputes ACT 1947 and also declaring that the two reasons cited by the 1st Respondent for her reluctance to sign the settlement under Sec.12(3) of the Industrial Disputes Act were unfounded.

For appellants : Mr.Balan Haridas

For respondent 1 : Mr.K.M.Ramesh

For respondent 2 : Mr.R.Govindasamy

For respondent 3 : Mr.G.Anand

for M/s.T.S.Gopalan & Co.

JUDGMENT

(Judgment of the Court was delivered by M.Dhandapani,J.)

This Writ Appeal is filed by third parties, challenging the order, dated 19.02.2018, passed in W.M.P.No.3720 of 2018 in W.P.No.32897 of 2017, by a learned single Judge, dismissing the petition, seeking leave to file a Clarification Petition in W.P.No.32897 of 2017.

2. The Writ Petition was one for a mandamus to direct the first respondent therein to initiate conciliation proceedings and subscribe to the settlement, dated 22.11.2017, by converting the same under Section 12 (3) of the Industrial Disputes Act,1947, and also to declare that the two reasons cited by the first respondent for her reluctance to sign the settlement under Section 12 (3) of the Industrial Disputes Act were unfounded.

3. The rank of the parties in the Writ Petition vis-a-vis this Writ Appeal is that the petitioner in the Writ Petition is the first respondent herein; the first respondent in the Writ Petition and second respondent herein is the Conciliation Officer and the second respondent in the Writ Petition and third respondent herein is the management.

4. The Writ Petition was disposed of by the learned single Judge on 21.12.2017, directing the first respondent therein, who is the Conciliation Officer, to initiate conciliation proceedings and subscribe to the settlement under Section 18(1) of the Industrial Disputes Act,1947, reached by the parties, substituting the settlement, dated 22.11.2017,

under Section 12 (3) of the Act, after hearing all the members of the petitioner union. Thereafter, the appellants-third parties, filed a petition before the learned single Judge, seeking leave to file a Clarification Petition, to clarify the order, dated 21.12.2017, passed in the Writ Petition. The said petition was dismissed by the learned single Judge, on the ground that seeking leave to file clarification petition is not recognised in the eye of law. It is against that order of dismissal, the present Writ Appeal is filed.

5. As already stated supra, by the order, dated 21.12.2017, passed in the Writ Petition, the learned single Judge directed the Conciliation Officer to initiate conciliation proceedings and subscribe to the settlement under Section 18(1) of the Industrial Disputes Act, 1947, reached by the parties, substituting the settlement, dated 22.11.2017, under Section 12 (3) of the Act, after hearing all the members of the petitioner union. We do not see any ambiguity to be clarified in the said order. At the same time, we also do not find any perversity in the order passed by the learned single Judge. However, we direct the second respondent-Conciliation Officer, namely, the Special Deputy Commissioner of Labour, Chennai, to pass orders in accordance with law under Section 12 (3) of the Industrial Disputes Act within a period of four weeks from the date of receipt of a copy of this order.

6. Writ Appeal is dismissed accordingly. No costs. Consequently, the connected C.M.P.No.6743 of 2018 is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

dixit

To

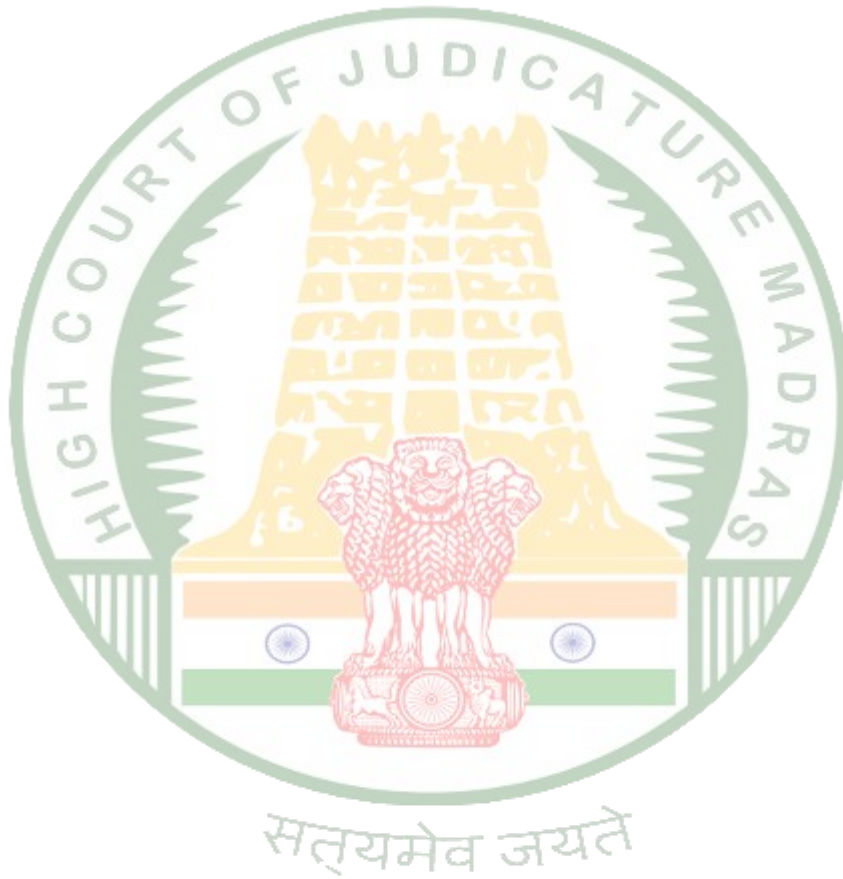
The Special Deputy Commissioner of Labour,
4th Floor, Labour Welfare Building,
DMS Compound,
Chennai - 600 006.

WEB COPY

+lcc to K.M.Ramesh, Advocate sr.no.52506
+lcc to M/s.T.S.Gopalan & Co, Advocate sr.no.52288
+lcc to Mr.Balan Haridas, Advocate sr.no.52235

W.A.No.703 OF 2018

mr(co)
nr 06/09/2018



WEB COPY