

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2018

C O R A M

THE HON'BLE Mr.JUSTICE P.D.AUDIKESSAVALU

W.P.No.8053 of 2004
and WPMP No.9504 of 2004

The Motherland Tea Plantations
and Factory Pvt. Ltd.,
Thangamalai, Anihatty Road,
Kotagiri, The Nilgiris,
rep. by its Managing Director.

...Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Coimbatore.

2.B.Mahalingam

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records of the first respondent pertaining to his proceedings in C.P.No.320/2001 and quash the order dated 13.11.2002.

For petitioner : Mr.R.Sivakumar

For Respondents : R1-Court

Mr.K.M.Ramesh-Amicus Curie for R2

No appearance - R3

O R D E R

Heard Mr.R.Sivakumar, learned counsel appearing for the petitioner and Mr.K.M.Ramesh, learned Amicus Curie, and there is no representation for the second respondent.

2.The writ petition challenges the order dated 13.11.2002 in C.P.No.320 of 2001 passed by the first respondent /Labour Court, Coimbatore under Section 33-C(2) of the Industrial Disputes Act, 1947, (which is analogous to execution proceedings), for the reason that the Labour Court has computed the amount of money claimed by the Second Respondent/workman from the Petitioner/employer without any prior

adjudication or recognition of that disputed claim by the employer. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court of India in *Municipal Corporation of Delhi vs Ganesh Razak* [(1995) 1 SCC 235] in which it has been held as follows:-

".....the power of the Labour Court under Section 33-C(2) extends to interpretation of the award or settlement on which the workman's right rests, like the Executing Court's power to interpret the decree for the purpose of execution, where the basis of the claim is referable to the award or settlement, but it does not extend to determination of the dispute of entitlement or the basis of the claim if there be no prior adjudication or recognition of the same by the employer."

3.It is submitted by Mr.K.M.Ramesh, learned Amicus Curiae (appointed by this court on account of non-appearance of the Second Respondent in the matter), that the impugned order of the Labour Court is based upon the exhibit marked as Ex.W-1, which are letters dated 20.06.2001 and 22.03.1995 by the Petitioner/employer recognising the claim made by the Second Respondent /workman for that monetary benefit and as such, there is no infirmity in the impugned order of the Labour Court.

4.In response thereto, it is contended by the Learned Counsel for the Petitioner that the execution of that letter (Ex.W-1) was itself disputed before the Labour Court on the ground that it was a document prepared by the Second Respondent for the purpose of that case, but the Labour Court has brushed aside that plea by holding that the signature in the document was not disputed, which according to him, amounts to perversity and the matter has to be decided afresh on that aspect by the Labour Court.

5.When it was pointed out that inasmuch as the amount involved in the dispute is a meagre sum of Rs.30,000/-, which is also reportedly deposited pursuant to the interim order dated 13.03.2004 passed by this court, it would not be appropriate to remit back the matter to the Labour Court at this distance of time, he fairly submitted that the Petitioner would be satisfied if it is suitably clarified by this Court that the findings against the Petitioner in the impugned order would not be used against the Petitioner in any similar claim that may be raised by any of its other workmen.

6.In these circumstances, this Court does not express any view on the correctness or otherwise of the findings of the Labour Court in the impugned order. It is made clear that if any of the other workmen of the Petitioner, make any similar claim

as that made by the Second Respondent, the same shall be decided on merits in accordance with law, uninhibited and uninfluenced by the findings in the impugned order. Further, as agreed by the Learned Counsel appearing for the Petitioner, the Second Respondent is permitted to withdraw the amount due under the impugned order, which has already been deposited by the Petitioner in the Labour Court.

7. Accordingly, the Writ Petition is disposed with the aforesaid observations. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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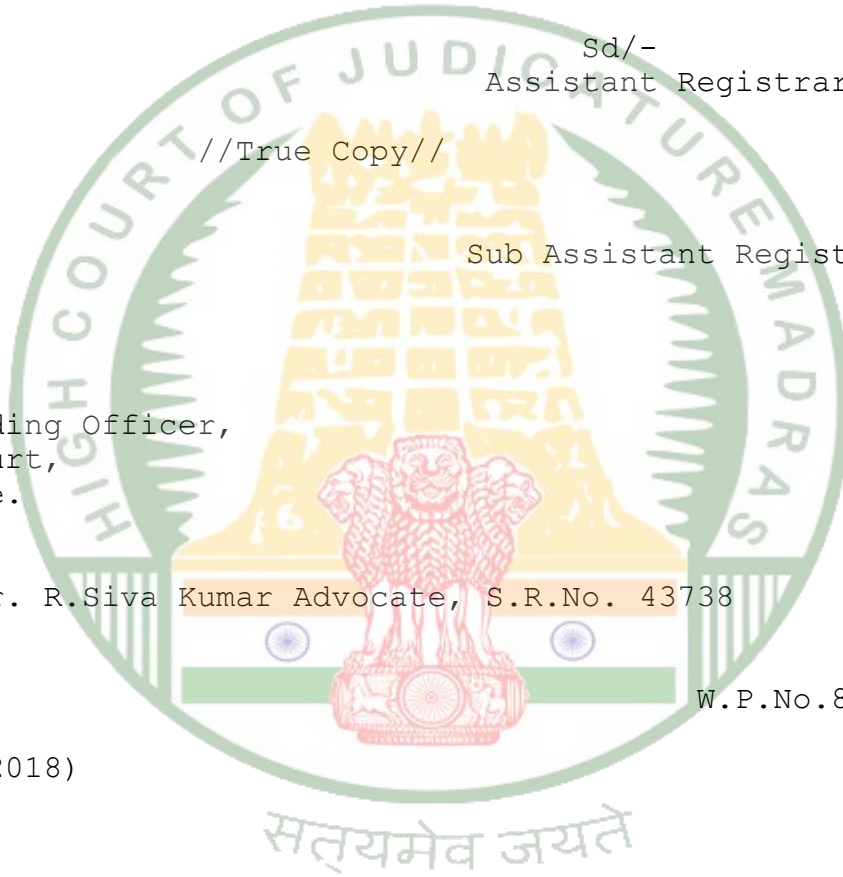
To

The Presiding Officer,
Labour Court,
Coimbatore.

+1cc to Mr. R.Siva Kumar Advocate, S.R.No. 43738

EV (CO)
GN (04/09/2018)

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