

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

C O R A M
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU
W.P.No.1443 of 2003

Workmen of Vasantha Mills Ltd.
Through Kovai Periyar Mavatta Dravida Panchalai
Thozhilalar Munnetra Sangam (Regn. No. 2656)
No.69, Tatabad Street No.3
Coimbatore 641 012
Rep by its General Secretary S.Duraisamy
...Petitioner

Vs.

- 1.The Management of Vasantha Mills Ltd.
Rep by its Chairman and Managing Director
Singanallur, Coimbatore.
- 2.Coimbatore District National Textile
Employees Union (Regn. No.570)
I.N.T.U.C. (N.L.O)
Rep by its General Secretary
621, Trichy Road, Ramanathapuram
Coimbatore - 45.
- 3.The Coimbatore District Textile
Workers Union (H.M.S.) (Regn. No.111)
Rep by its General Secretary
No.2212, Trichy Road, Singanallur
Coimbatore - 641 005.
- 4.Kovai Erodu Mavatta Dravida Panchalai
Thozhilalar Nirvaga Uzhiyargal Sangam
(L.P.F.) (Regn.No.1102/CBE)
Rep by its General Secretary
No.1, Palani Velayutham Pillai Street
Devar Bungalow, Ramanathapuram, Coimbatore - 641 045.
- 5.Coimbatore District Mill
Workers Union (A.I.T.U.C.)
(Regn. By its General Secretary
No.99, Rangan Street, Coimbatore - 641 009.
- 6.Government of Tamil Nadu
Represented by its Secretary
Department of Labour and Employment
Fort St. George, Chennai - 600 009.

7.Mr.K.C.Palanisamy
Cheran Group of Companies
Cheran Towers, Coimbatore.

8.The Official Liquidator
Kuralagam, Chennai - 600 104.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the settlement entered into on 20.11.2002 between the First Respondent and the Second to Fifth Respondents herein under Section 18(1) of the I.D.Act to be illegal and void and further direct the Sixth Respondent to take appropriate action in accordance with the provisions of the Industrial Disputes Act, 1947 as against the First Respondent.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.Anirudh B Menon

For Respondents : Mr.S.Ayyadurai - Amicus Curie

ORDER

The First Respondent, viz., Management of Vasantha Mills Limited, had entered into a settlement dated 20.11.2002 under Section 18(1) of the Industrial Disputes Act, 1947, with the Second to Fifth Respondents/Trade Unions. The Petitioner, which is also a Trade Union, has filed this Writ Petition claiming to espouse the cause of some of the employees of the First Respondent for declaration that the aforesaid settlement is illegal and void and for further direction to the Sixth Respondent to take appropriate action against the First Respondent in accordance with the provisions of the Industrial Disputes Act, 1947.

2. Since the Petitioner had not taken steps to serve notice on the First Respondent in this Writ Petition despite the lapse of 15 years, Mr.S.Ayyadurai, Advocate was appointed as amicus curie, to address the Court as to whether the Writ Petition could be maintained for the relief claimed.

3. Heard, Mr.V.Prakash, learned Senior Counsel appearing for the Petitioner, Mr.S.Ayyadurai, learned Amicus Curie and Mr.K.S.Suresh, learned Government Advocate appearing for the Sixth Respondent.

4. Having due regard to the dictum of the Full Bench of this Court in P.Pitchumani Vs. The Management of Sri Chakra Tyres [2004 (3) CTC 1] that matters concerning service conditions of the employees governed by Industrial Disputes Act, 1947, have to be adjudicated only by the forums created under that statute and are not amenable to the writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950, viz-a-viz the relief sought by the Petitioner in the Writ Petition, the learned Senior Counsel appearing for the Petitioner was required to show which of the clauses in the impugned settlement had affected the rights of the employees for whom the Petitioner was now representing. In response to that query, the learned Senior Counsel appearing for the Petitioner pointed out that clauses (11) and (13) relating to claim made for gratuity and wages by certain employees before the adjudicatory authorities under the provisions of the Payment of Gratuity Act, 1972, and the Payment of Wages Act, 1935, respectively were sought to be closed without the consent of the persons who had made those claims.

5. In this regard, it was pointed out that Hon'ble Supreme Court of India in Security Paper Mill Vs. R.S.Sharma [AIR 1986 2 SCC 751] has held that unlike a settlement under Section 18(3) of the Industrial Disputes Act, 1947, as a result of conciliation which binds all the workers, an agreement under Section 18(1) of the Industrial Disputes Act, 1947, shall not be binding on the workmen, who are not parties to it and as such, if the workmen whose claims fall under clauses (11) and (13) of the impugned settlement were not members of the Trade Unions which had entered into that agreement, the same could not bind them. This would mean that if that agreement was relied in the aforesaid proceedings, the concerned employees could establish with evidence that they were not members of the Trade Unions which entered into that agreement so as to bind them. Apart from the aforesaid clauses, the learned Senior Counsel was not in a position to show as to how the workers/members of the Petitioner/Trade Union were prejudicially affected by the impugned settlement entered by the First Respondent with the Second to Fifth Respondents.

6. In the light of the aforesaid incontrovertible legal position, the learned Senior Counsel appearing for the Petitioner has sought the permission of this Court to withdraw the Writ Petition and the Counsel on Record for the Petitioner has also made an endorsement to that effect.

7. Hence, the Writ Petition is dismissed as withdrawn. It is made clear that if the First Respondent relies in any of the proceedings referred in clauses (11) and (13) of the impugned settlement, the concerned workmen are entitled to establish that they were not members of the Trade Unions which entered into

that settlement so as to bind them and depending upon the same, the adjudicatory authority shall decide the matters in accordance with law. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vjt

To

1.The Secretary,
Government of Tamil Nadu
Department of Labour and Employment
Fort St. George, Chennai - 600 009.

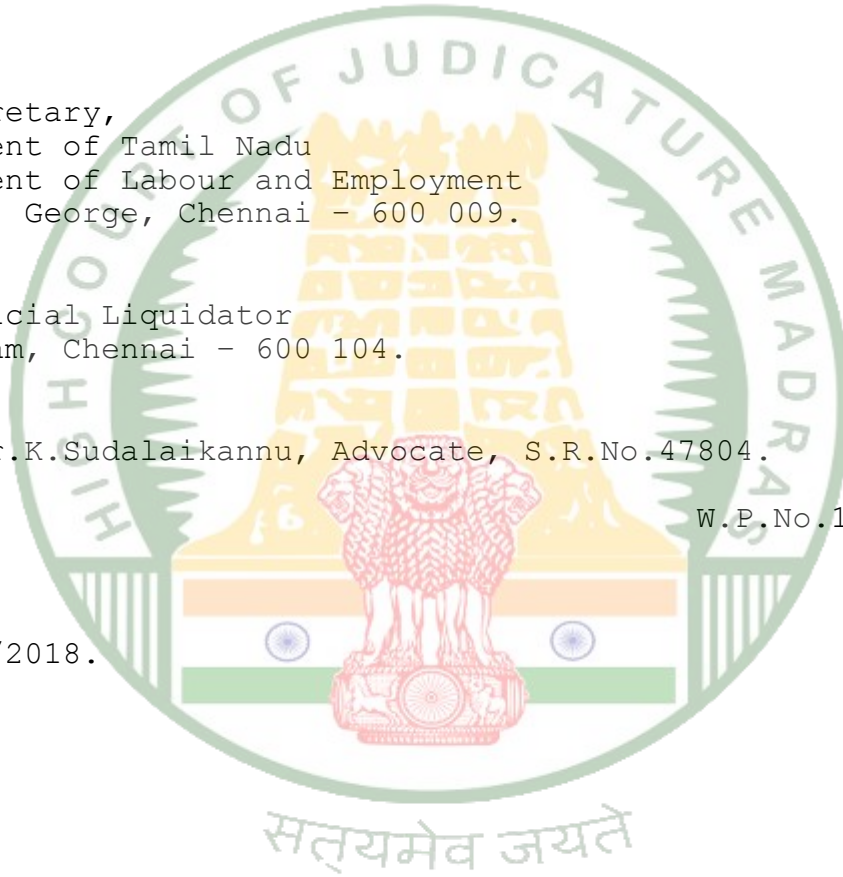
2.The Official Liquidator
Kuralagam, Chennai - 600 104.

+lcc to Mr.K.Sudalaikannu, Advocate, S.R.No.47804.

W.P.No.1443 of 2003

KJ(CO)

rrs 17/09/2018.



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