



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE R.THARANI

W.A(MD) No.530 of 2018
and
C.M.P.(MD) Nos.3075 of 2018

1.The Management,
P.R.Srinivasan & Sons, rep. by
Partner Mr.P.R.Srinivasan
Vermicelli Factory,
No.658, Manthithoppu Road,
Kovilpatti - 628 502. ... Appellant/Petitioner

Versus

1.The District Collector,
Tuticorin District, Tuticorin.
2.The Controlling Authority
under the Payment of Gratuity Act,
Assistant Labour Commissioner,
Thirunelveli Camp at Tuticorin, Tuticorin.

3.Mr.Murugan ... Respondents/Respondents

Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 06.02.2018 made in W.P.(MD)No.17689 of 2017 and allow the Writ Appeal.

Prayer in WP(MD). 17689/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records relating to the order passed by the 1st respondent dated 02.08.2017 in his Na.Ka.J1/18009/2017 and quash the same and to direct the 2nd respondent to pass orders on the I.A. filed under Order-IX Rule-7 of the CP.C. to set aside the ex-parte order dated 09.03.2017 and hear the P.G.No.3 of 2016 on merits .

For Appellant

: Mr.A.S.Mujibur Rahman

For Respondents

: Mr.V.R.Shanmuganathan,

Spl.G.P. For RR1 and 2

JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J)

Heard Mr.A.S.Mujibur Rahman, learned counsel for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents. The third respondent though served in the writ petition did not enter appearance through counsel nor appeared in person. Therefore, we dispense with notice to the third respondent.

2.The appellant approached the Writ Court challenging the proceedings initiated by the District Collector under the provisions of Tamil Nadu Revenue Recovery Act for recovery of the gratuity amount as computed by the second respondent vide its order dated 09.03.2017, directing the payment of a sum of Rs.1,84,154/- to the third respondent. The order passed by the second respondent was an exparte order. Therefore, the appellant filed a petition to set aside the exparte order and seeking for condonation of the delay of 78 days in filing such petition. An affidavit in support of the petition has been filed and the same is now pending before the second respondent. In the meantime, since the District Collector initiated action under the Revenue Recovery Act, the appellant approached the Writ Court. The writ petition was dismissed.

3.Considering the factual scenario, we are of the view that the management can be granted an opportunity to contest the matter on merits. But, however, such opportunity shall be subject to condition.

4.In the light of the above, this writ appeal is allowed and the order passed by the writ Court is set aside and the writ petition stands disposed of by directing the appellant to deposit a sum of Rs.75,000/- before the second respondent to the credit of P.G.No.3 of 2016 on the file of the second respondent. Such deposit shall be made, within a period of four weeks from the date of receipt of a copy of this judgment. If the appellant complies with the said condition, the second respondent shall take up for consideration the petition filed by the appellant to condone the delay in filing the petition to set aside the exparte order vide petition dated 09.03.2017, issue notice to the third respondent, hear the parties on merits and pass orders in accordance with law. In the event of the appellant fails to comply with the condition imposed by this Court, it is open to the first respondent to proceed with the revenue recovery proceedings.

5.This writ appeal is allowed with the above direction. <https://hcservices.ecourts.gov.in/hcservices/>
Needless to state that the second respondent shall consider all issues including the maintainability of the petition and the power



for the authority to condone the delay. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector,
Tuticorin District, Tuticorin.

2.The Assistant Labour Commissioner,
Controlling Authority
under the Payment of Gratuity Act,
Thirunelveli Camp at Tuticorin, Tuticorin.

+1cc to Mr.M.Mohammed Ibrahim Ali, Advocate, SR.No.58679

+1cc to The Special Government Pleader, SR.No.59205

Arul

RL/5C/3P/SKN/RSK/SAR1/19/4/2018

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