

In the High Court of Judicature at Madras

Dated : 26.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Appeal Nos.986 & 995 of 2019 & CMP.Nos.7402 & 7472 of 2019

M/s.Rajasthan Patrika Pvt. Ltd.,
rep.by its Director and Chairman
Chennai-8.

...Appellant in WA.
No.986 of 2019 &
R3 in WA.No.995
of 2019

M/s.Forte Foliage Pvt. Ltd.,
Chennai-8

...Appellant in WA.
No.995 of 2019

Vs

1.Rajiv Kumar Ishwar

...R-1 in WA.No.
986 of 2019

2.Roopa Ram Jangir

...R-1 in WA.No.
995 of 2019

3.The Presiding Officer, Labour Court,
George Town, Chennai-104.

...R-2 in both WAS

APPEALS under Clause 15 of the Letters Patent against the
common order dated 24.10.2018 passed in W.P.Nos.16894 and 16895
of 2018.

W.P.No.16894 & 16895/2018:

Writ Petitions filed under Article 226 of the Constitution
of India praying for the issuance of a Writ of certiorarified
Mandamus calling for records from the 1st Respondent in his
proceedings and quash the order dated 14.06.2018 in ID (SR
No.3536/2018) & 3535/2018 and direct the 1st Respondent to
number the same.

For Appellant in WA.No.986 of 2019
& R3 in WA.No.995 of 2019 : Mr.A.Thiagarajan, SC for
Mr.M.Sunil Kumar

For Appellant in W.A.No.995 of 2019 :Mr.N.Baskaran

For Respondent-1 in W.A.No.986 of 2019

: Mr.P.Balasubramanian for
Mr.Mahesh Kumar

For Respondent-1 in W.A.No.995 of 2019

: Mr.P.Balasubramanian for
Mrs.Rohini Ravikumar

COMMON JUDGMENT

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

We have heard Mr.A.Thiagarajan, learned Senior Counsel appearing on behalf of Mr.M.Sunil Kumar, learned counsel on record for the appellant in WA.No.986 of 2019 and third respondent in WA.No.995 of 2019, Mr.N. Baaskaran, learned counsel appearing for the appellant in WA.No.995 of 2019 and Mr.P.Balasubramanian, learned counsel appearing on behalf of (i) Mr.Mahesh Kumar, learned counsel on record for the first respondent in W.A. No.986 of 2019 and (ii) Mrs.Rohini Ravikumar, learned counsel on record for the first respondent in W.A.No.995 of 2019.

2. These appeals are directed against the common order dated 24.10.2018 passed by the learned Single Judge in W.P.Nos.16894 and 16895 of 2018 filed by the respective first respondent in these appeals. The second respondent in the said writ petitions and the third respondent in W.P.No. 16895 of 2018 are the appellants before us.

3. The respective first respondent in these appeals were the writ petitioners and they sought for the issuance of a Writ of Certiorari to quash the orders passed by the Principal Labour Court, Chennai in I.D.SR.Nos.3535 and 3536 of 2018 dated 14.6.2018 rejecting the petitions filed by them under Section 33A of the Industrial Disputes Act, 1947 (for brevity, the Act) and holding that merely because the respective first respondent herein - writ petitioners were transferred to a different State to work in the office of the appellants herein, it would not amount to a change of condition of service. It was further held by the Principal Labour Court that the respective first respondent herein - writ petitioners could not raise an industrial dispute under Section 33A of the Act.

4. The respective first respondent - writ petitioners filed the said writ petitions to quash the orders dated 14.6.2018 and to direct the Principal Labour Court to number the said industrial disputes. Their main grievance before the learned Single Judge was that the Principal Labour Court would not have

rejected the petitions even at the SR stage without even numbering the same. The learned Single Judge, by the impugned order, allowed the said writ petitions, set aside the orders passed by the Principal Labour Court and directed the Principal Labour Court to take the petitions on file and dispose of them on merits and in accordance with law.

5. The appellants before us are not aggrieved by that portion of the direction issued by the learned Single Judge. But, they are aggrieved by the last line in paragraph 10 of the impugned order wherein the learned Single Judge stated that till the conclusion of the proceedings, the orders of transfer should be kept in abeyance.

6. In our considered view, firstly, the learned Single Judge could not have granted an interim order, which would travel beyond the scope of the prayer sought for in the said writ petitions. Therefore, that portion of the impugned order requires to be interfered with. Secondly, the prayer sought for in the said writ petitions was only to quash the orders passed by the Principal Labour Court and to number the petitions filed by the respective first respondent - writ petitioners. That prayer having been granted, the learned Single Judge could not have extended the relief to the respective first respondent herein - writ petitioners by directing the orders of transfer to be kept in abeyance.

7. In fact, one of the writ petitioners namely the first respondent in W.A.No.986 of 2019 - one Mr.Rajiv Kumar Ishwar had joined the services in the transferred place on 25.9.2018. It appears that after the said writ petitions were allowed, the said Mr.Rajiv Kumar Ishwar had come back to Chennai. Furthermore, the learned Single Judge could not have granted an order of stay of the orders of transfer passed by a private limited company in respect of its employees as no writ would lie against a private limited company. For all the above reasons, the relief granted to the respective first respondent herein - writ petitioners by the learned Single Judge is without jurisdiction and is liable to be set aside.

8. Accordingly, the writ appeals are allowed and the common order passed by the learned Single Judge in so far as it grants an order of stay of the orders of transfer to the respective first respondent herein - writ petitioners is set aside. It is made clear that if the respective first respondent herein - writ petitioners join in the transferred place, that would not, in any manner, impede their rights before the Principal Labour Court and it will be without prejudice to their rights and contentions in the disputes, which they raised before the Principal Labour Court. The Principal Labour Court is directed to number the said industrial disputes as expeditiously as

possible , preferably within a period of four weeks from the date of receipt of a copy of this judgment and consider the matter as expeditiously as possible provided the said industrial disputes are otherwise in order. No costs. Consequently, the connected CMPs are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

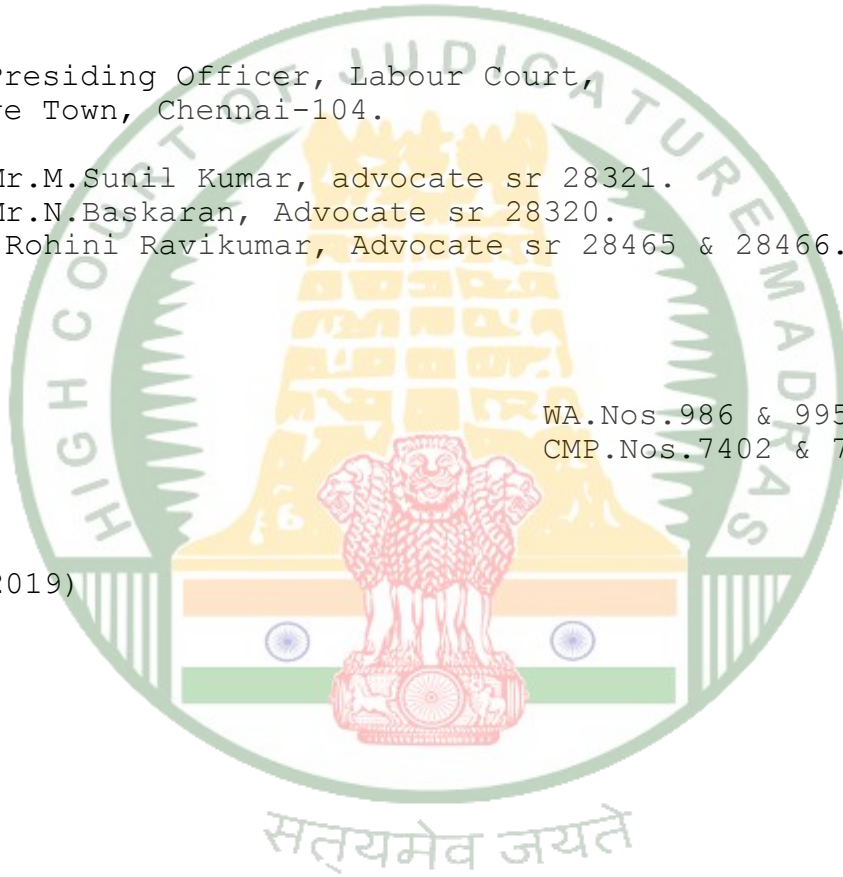
To

The Presiding Officer, Labour Court,
George Town, Chennai-104.

+1 CC to Mr.M.Sunil Kumar, advocate sr 28321.
+1 CC to Mr.N.Baskaran, Advocate sr 28320.
+2 CCS to Rohini Ravikumar, Advocate sr 28465 & 28466.

WA.Nos.986 & 995 of 2019 &
CMP.Nos.7402 & 7472 of 2019

LN(CO)
SP(14/05/2019)



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