

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2019

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.497 of 2019
& C.M.P.No.4341 of 2019

United Labour Federation rep.by its
Secretary, Regn.No.2657/CNI,
No.149, Thambu Chetty Street
C.J.Complex, IVth Floor
Chennai - 600 001 Appellant

Vs

- 1.The Management of SNY Autotech Pvt
Limited, rep.by its Director
Survey No.297,300,301
Sugamtharumpedu Village Road
Irungattukkottai
Sriperumbudur Taluk.
- 2.The Inspector of Police
C1 Police Station,
Sriperumbudur-602 105. Respondents

For Appellants : Mr.V.Prakash, Senior Counsel
For M/s.M.Karthikeyani

For Respondents : Mr.S.Ravindran, Senior Counsel
for Mr.P.Nehru - for R1

Prayer : Writ Appeal under Clause 15 of the Letters Patent
against the order passed in W.P.No.23427 of 2018 dated
06.12.2018.

Prayer in WP.23427 of 2018: Writ Petition filed under Article
226 of the Constitution of India to issue a Writ of Mandamus
directing the 1st respondent to provide adequate Police
Protection to the Petitioner to enable the willing workmen,
contract workmen, staff officers and other managerial personnel
and customer to enter and exit the factory premises to enable
the petitioner to send materials to its customers to receive
the materials including raw materials for process work inside
the petitioner factory premises, (ingress and egress of men and

materials) and ensure that the striking workmen are 500 meters away from the main gate of the factory premises and to maintain law and order and peace in and around the petitioners factory premises situated at Survey No.207 300 301 Sugamtharumpedu village Road, Irrungattukotai, Sriperumbudur Taluk-602 117.

J U D G M E N T

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

Heard Mr.V.Prakash, learned Senior Counsel, assisted by Ms.M.Karthikeyani, learned counsel for the appellant and Mr.S.Ravindran, learned Senior Counsel, assisted by Mr.P.Nehru, learned counsel for the respondent management. This appeal is directed against the order passed in W.P.No.23427 of 2018 dated 06.12.2018. The respondent management filed the writ petition, praying for a direction to provide adequate police protection to enable the willing workmen contract workmen staff officers and other managerial personnel and customers to enter and exit the factory premises to enable the petitioner to send materials to its customers to receive the materials including raw materials for process work inside the petitioner factory premises (ingress and egress of men and materials) and ensure that the striking workmen are 500 meters away from the main gate of the factory premises and to maintain law and order and peace in and around the factory premises.

2. A reading of the order passed by the learned single Judge, we find that elaborate arguments were advanced on either side. The contentions raised by the learned counsel for the appellant workmen, before the writ court, has been summarised in paragraph 8 of the impugned order by the learned single Judge in the following terms and for the purpose of this appeal, it would suffice to take note of the following submissions.

"The learned senior counsel categorically stated that the second respondent union will not prevent the management staff or the executives entering into the factory premises. The learned senior counsel also ensured that the ingress and egress of materials will also not be prevented by the second respondent union. He further assures that the willing workmen whose names are found in the register maintained by the petitioner company, as on 31.08.2018, will not be prevented from going to work (However the learned senior counsel added that there was no such willing workmen who are going for work to the factory) and the second respondent union will remain 200 meters away from the factory premises, provided the petitioner company does not engage the services of any new workmen from outside and thereby break a legal strike and indulge in unfair labour practise. In short, the leaned senior counsel submitted that

the discretionary order passed by this Court should not be mis-used by the petitioner management with the help of police force."

3. Learned single Judge, after hearing the parties, disposed of the writ petition with the following directions.

"29. In the result, the writ petition is disposed of with the following directions:

a) The 1st respondent Police shall provide Police Protection to the factory premises of the petitioner Company to ensure that there is free ingress and egress of men and materials.

b) The 1st respondent shall ensure that no law and order problem is created near the factory premises and normalcy is maintained.

c) The 2nd respondent can conduct the demonstrations/strike, 200 mts away from the petitioner's Factory premises.

d) It is left open to the parties to agitate their respective rights before the appropriate forum/Court and this order will not have any bearing on the respective rights of parties. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed."

4. Elaborate submissions were made by Mr.V.Prakash, learned Senior Counsel and he submitted that the order passed in the writ petition, in effect, breaks a legal strike and facilitates bringing in outside workers to do work done by the members of the appellant union for several years and therefore it is submitted that the learned writ Court ought not to have exercised discretionary writ jurisdiction in favour of the management. Further, it is submitted that the management calls for police protection not for preventing any law and order problem, but for bringing outside workforce and to break the strike by the appellant union.

5. Mr.S.Ravindran, learned Senior Counsel appearing for the respondents submits that the apprehension of the appellant union is wholly unjustified and it is submitted that the arguments advanced by the learned Senior Counsel for the appellant as recorded by the learned Single Bench as quoted above may be recorded and the appeal be closed. The apprehension of the learned Senior Counsel for the appellant is that under the guise of employing willing workmen, whose names are found in the register maintained by the management as on 31.08.2018, the management will bring in additional workforce to work in the

place of the workmen, who are now participating in the strike.

6. The learned Senior Counsel for the respondent management submits that the management does not propose to do anything, as alleged by the Union, but in the event if any of the workman, whose name is found in the register maintained by the management as on 31.08.2018 has resigned or left the employment, then the respondent management should not be prevented from recruiting a person, who is willing to work in that vacancy. Learned Senior Counsel for the appellant, submitted that if the attempt of the management is only to fill up vacancy or vacancies, which had been caused on account of resignation of the workmen, whose names are found in the register as on 31.08.2018, the appellant will not have any objection. Thus, the factual situation having been made clear, we dispose of this appeal by adding one more condition to the order passed in the writ petition as condition No.(e), which shall be as follows.

"(e) The appellant union will not prevent the management, staff or executives entering into the factory premises and also ingress and egress of material will not be prevented by the appellant union and the willing workmen, whose names are found in the register maintained by the respondent management as on 31.08.2018 will not be prevented from going to work and the appellant management will not object to recruit any person in the place of the person whose name was in the register as on 31.08.2018, but who has left the services of the respondent management. Further, the respondent management shall not recruit any fresh workmen in the place of the workmen, who are now participating in the strike."

7. With the above observations and additions to the directions contained in para 29 of the order passed in the writ petition, the writ appeal stands disposed of. It is made clear that both the parties are at liberty to adjudicate all the other issues before the appropriate forum. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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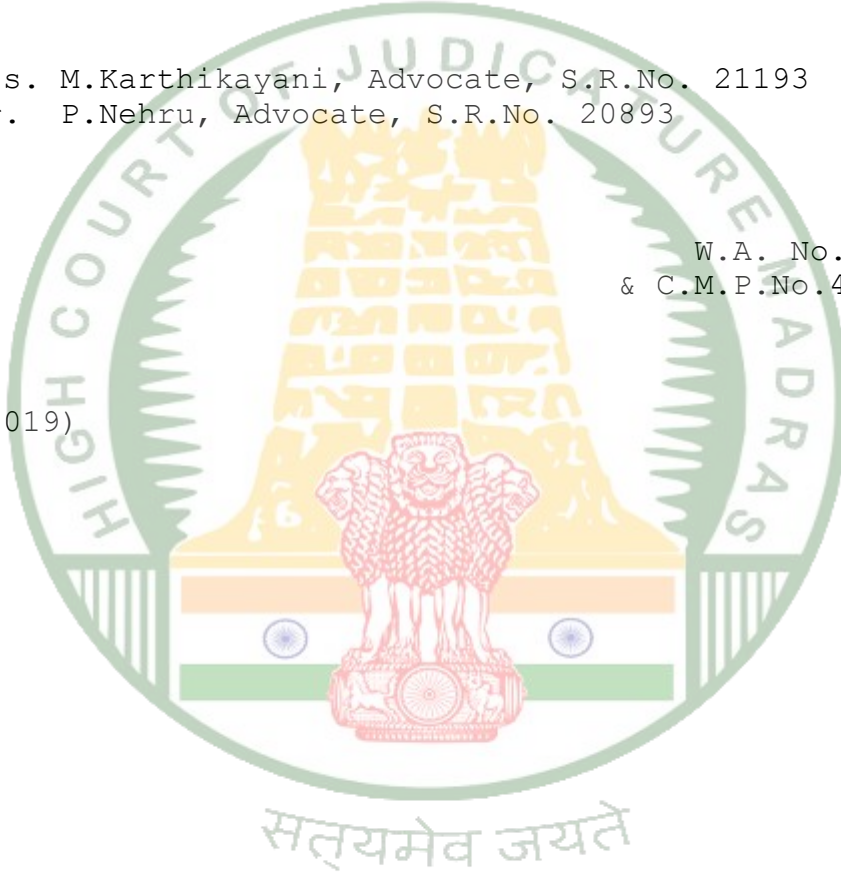
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+1cc to M/s. M.Karthikayani, Advocate, S.R.No. 21193
+1cc to Mr. P.Nehru, Advocate, S.R.No. 20893

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& C.M.P.No.4341 of 2019

RR (CO)
GN (03/04/2019)



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