

In the High Court of Judicature at Madras

Dated : 04.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

CMP.No.4568 of 2019 & WA.SR.No.21871 of 2019

OBO Betterman India Private Limited,
rep.by its Managing Director Mr.K.
Arul Prakash

...Petitioner/
Appellant

Vs

1.The Deputy Commissioner of
Labour (Minimum Wages),
Appellate Authority under the
Tamil Nadu Shops & Establishments
Act, 1947, Labour Commissionerate,
DMS Complex, Teynampet,
Chennai-6.

2.Mr.P.Prashanth

...Respondents/
Respondents

PETITION under Section 151 of the Civil Procedure Code praying to
condone the delay of 74 days in filing the writ appeal as against the order
dated 02.11.2018 made in WMP.No.32196 of 2018 in W.P.No.21945 of 2018.

APPEAL under Clause 15 of the Letters Patent against the order dated
02.11.2018 made in WMP.No.32196 of 2018 in W.P.No.21945 of 2018.

For Petitioner/Appellant :
For Respondent-1 :

Mr.N.Surya Senthil
Mr.R.P.Prathap Singh, GA

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard Mr.N.Surya Senthil, learned counsel for the petitioner and Mr.R.P.Prathap Singh, learned Government Advocate accepting notice for first respondent.

2. CMP.No.4568 of 2019 is filed by the petitioner seeking to condone the delay of 74 days in filing the appeal as against the interim order dated 02.11.2018 in WMP.No.32196 of 2018 in WP.No.21945 of 2018.

3. We find from the said order that not only the writ petition is pending, but the miscellaneous petition is also pending.

4. The learned counsel for the petitioner submits that the provisions of the Tamil Nadu Shops and Establishments Act would not apply to the second respondent and that the interim order has been granted without considering the contentions that could be raised by the petitioner.

5. Since the writ petition along with miscellaneous petitions are still pending before the learned Single Judge, an appeal against the interim order is not maintainable. Therefore, the appropriate course of action to be adopted by the petitioner is to approach the learned Single Judge and seek whatever relief they prayed for.

6. With these observations, the above miscellaneous petition is dismissed as not maintainable. Consequently, the above writ appeal is rejected at the SR stage. No costs.

04.3.2019

Internet : Yes

T.S.SIVAGNANAM,J
AND
V.BHAVANI SUBBAROYAN,J

RS

To
The Deputy Commissioner of Labour (Minimum Wages), Appellate Authority
under the Tamil Nadu Shops & Establishments Act, 1947, Labour
Commissionerate, DMS Complex, Teynampet, Chennai-6.



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