

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.Nos.355 & 356 of 2012
and
M.P.Nos.1,1 of 2012

Management,
Srikanth Stone Quarry,
Prop. K.Srikanthan Reddiar,
S/o.Kandasamy,
Thellar Mamapattu Post,
Vandavasi Taluk,
Thiruvannamalai District.

... Petitioner
(in both W.Ps)

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore District,
Vellore.

... 1st Respondent
(in both W.Ps)

2.A.Rajendiran

... 2nd Respondent
(in W.P.No.355 of 2012)

2.A.Ganesan

... 2nd Respondent
(in W.P.No.356 of 2012)

Prayer in W.P.No.355 of 2012: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the records of the 1st Respondent made in I.D.No.40 of 2010 dated 01.03.2011 and quash the same.

Prayer in W.P.No.356 of 2012: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the records of the 1st Respondent made in I.D.No.41 of 2010 dated 01.03.2011 and quash the same.

In both W.Ps:

For Petitioner : Ms.S.Kala

For R1 : Court

For R2 : Mr.K.Kannaiah Naidu

C O M M O N O R D E R

These Writ Petitions are filed to issue a writ of Certiorari to call for the records of the 1st Respondent made in I.D.Nos.40 and 41 of 2010 dated 01.03.2011 and quash the same.

2.The issue involved in both the Writ Petitions is one and the same and therefore they are disposed of by this common order.

3.The second respondent in both the Writ Petitions raised Industrial Disputes in I.D.Nos.40 and 41 of 2010 on the file of the Principal Labour Court, Vellore, contending that they were working as labourers for the past 40 years from the age of 10 years in the petitioner Management. They were paid Rs.3,000/- per month at the rate of Rs.100/- per day as salary. The petitioner Management has allotted house for second respondents in both the Writ Petitions and they were using the same with their family. One Palaniswamy and his son Murugan were supervising their work on behalf of petitioner Management. In January 2009, the second respondent in both the Writ Petitions demanded more salary as per the Industrial Dispute Act, 1947. In view of the same, the petitioner Management refused to give work to the second respondents in both the Writ Petitions. The conciliation proceedings before the Labour Officer ended in failure and in such circumstances, they raised Industrial Dispute in I.D.Nos.40 and 41 of 2010 on the file of the Principal Labour Court, Vellore, referred to above praying for reinstatement with backwages from January 2009 and other benefits.

4.The petitioner Management filed separate counter statements in both the I.D.Nos.40 and 41 of 2010 and denied all the averments made by the second respondent. The petitioner contended that there is no establishment by name Srikanth Stone Quarry. One Srikanth Reddiar, who signed the counter statement, has obtained license from the Government in the year 1985 for Quarrying Blue Metal in his Patta land. The said license has to be renewed once in three years. The said Srikanth Reddiar leased out the Quarry work to one Palaniswamy and after his death, his son Murugan was quarrying the work. The said Srikanth Reddiar was not aware of the persons engaged in the work by the said

Palaniswamy and his son Murugan and the wages given by them to the workers. The second respondent in both the Writ Petitions never worked under the said Srikanth Reddiar and there was no employer-employee relationship and no salary was paid to the second respondent by the said Srikanth Reddiar. The petitioner denied that the said Palaniswamy and his son Murugan were their supervisors. The petitioner further stated that the license for quarry has expired in January 2009 and subsequently it was not renewed and after January 2009 there was no quarrying work carried on. The question of refusal of work to the second respondent does not arise, as the petitioner did not engage the second respondent as workers and prayed for dismissal of the Industrial Disputes raised by the second respondent.

5. Before the first respondent, both the second respondent examined themselves as W.W.1 and W.W.2 and marked the failure reports as Exs.W1 and W2 dated 09.12.2009. The petitioner did not let in any oral and documentary evidence. The first respondent considering the entire materials on record, rejected the contention of the petitioner that said Palaniswamy and after his death, his son Murugan was lessee of the petitioner. The first respondent accepting the contention of the petitioner that after January 2009, license to quarry was not renewed, held that there is no chance for the second respondent being employed in future, ordered payment of Rs.1,00,000/- each as compensation to the second respondent in both the Writ Petitions and dismissed both the Industrial Disputes with regard to other benefits.

6. Challenging the order of the first respondent dated 01.03.2011 made in I.D.Nos.40 and 41 of 2010, ordering compensation to the second respondent, the petitioner has come out with the present two Writ Petitions.

7. The learned counsel appearing for the petitioner reiterated the counter statement filed before the first respondent and further contended that the license to quarry was taken by the petitioner only in the year 1985 and the same got expired in January 2009 and it is not known how the second respondent would have worked for 40 years. The first respondent erred in accepting the self destructive and contrary plea of the second respondent. The compensation awarded by the first respondent based on the 40 years of service as claimed by the second respondent is unsustainable and erroneous, while the license for quarrying was taken only in the year 1985. The second respondent in both the Writ Petitions were not working in Stone Quarry of the petitioner Management for 40 years from the age of 10. Both the second respondents were working under one Palaniswamy and his son Murugan. Both the second respondent are brothers of said Palaniswamy. The second respondent in both the Writ Petitions were working as contract labour under Palaniswamy

and subsequently under his son Murugan. Both the second respondent failed to prove that they were working as labours under the petitioner Management for more than 40 years. The first respondent erroneously ordered compensation and prayed for allowing the Writ Petitions by setting aside the award of the Tribunal.

8.Mr.K.Kannaiah Naidu, learned counsel appearing for the second respondent in both the Writ Petitions contended that because of the violation of condition, the quarry license was not renewed and therefore, it is not a fault on the second respondent, the quarry was closed. Therefore, they have to be given compensation.

9.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the second respondent and perused the entire materials on record.

10.From the materials available on record, it is seen that it is the contention of the second respondent in both the Writ Petitions that they were working in petitioner Management for 40 years from the age of 10 years and after January 2009, the petitioner refused to give work to the second respondent. On the other hand, the contention of the petitioner Management is that there is no Stone Quarry in the name of Srikanth Stone Quarry. One Srikanth Reddiar in his individual capacity obtained license to quarry stone in his Patta land in the year 1985 and every three years, it should be renewed. The said license expired in January 2009 and subsequently it was not renewed. The petitioner denied employer-employee relationship with second respondent and contended that the said Srikanth Reddiar leased out the quarrying operation to one Palaniswamy and subsequently after his death to his son Murugan. The said Srikanth Reddiar failed to substantiate his contention that quarrying operation was leased out to one Palaniswamy and subsequently after his death to his son Murugan. Similarly, the second respondent in both the Writ Petitions have not proved that they were working under the petitioner's Management for 40 years from the age of 10 years. It is unbelievable that the second respondent in both the Writ Petitions were working under the petitioner's Management from the age of 10 years. In view of the same, a sum of Rs.1,00,000/- each awarded to the second respondent in both the Writ Petitions is not correct. Considering the admitted fact that the petitioner has got license to quarry from the year 1985, which was not renewed after January 2009 and the same was not denied by the second respondent in both the Writ Petitions, the second respondents are not entitled to any compensation. Further the learned counsel appearing for the petitioner has today filed an affidavit, whereas in paragraph Nos.3 to 5, he has been stated as follows:

"...3.I humbly submit that the workmen/2nd Respondents in both the Writ Petitions are residing in my patta land at Thresapuram Post, Mavalavadi Kutroad, Vandavasi Circle, Pincode - 604 406, without any rent for the past 10 years. They are utilizing more than two acres of my land. So many times I asked them to vacate my place. They did not vacate the same. The Electricity connection and Patta are stands in my name. I am annexing the photographs showing the proof that the 2nd Respondents in both the Writ Petition are residing in my land.

4.I respectfully submit that the 2nd Respondent in W.P.No.355 of 2012 namely A.Rajendiran was working in the adjacent stone quarries to my land and due to the drought season now he is digging of the wells in the nearby villages by using Tractor with the blasting machine. In addition to that he is having a Minivan and using it to transport products from hollow blocks and other agricultural produces. He is gainfully employed and using my land all these years.

5.I respectfully submit that the 2nd Respondent in W.P.No.356 of 2012 namely A.Ganesan was working in the adjacent stone quarries to my quarry land and now he is working in one Hallow Block making industry in Mavalapadi Kutroad, Vandavasi Circle which is 200 meters from my land where the 2nd Respondent is residing."

11.The learned counsel appearing for the petitioner submitted that both the second respondent were working in another quarry belonging to third party and unauthorizedly occupying the huts belonging to the petitioner and there is no loss of income for the second respondent in both the Writ Petitions.

12.For the above reason, both the Writ Petitions are allowed, setting aside the impugned award passed by the first respondent in I.D.Nos.40 and 41 of 2010. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

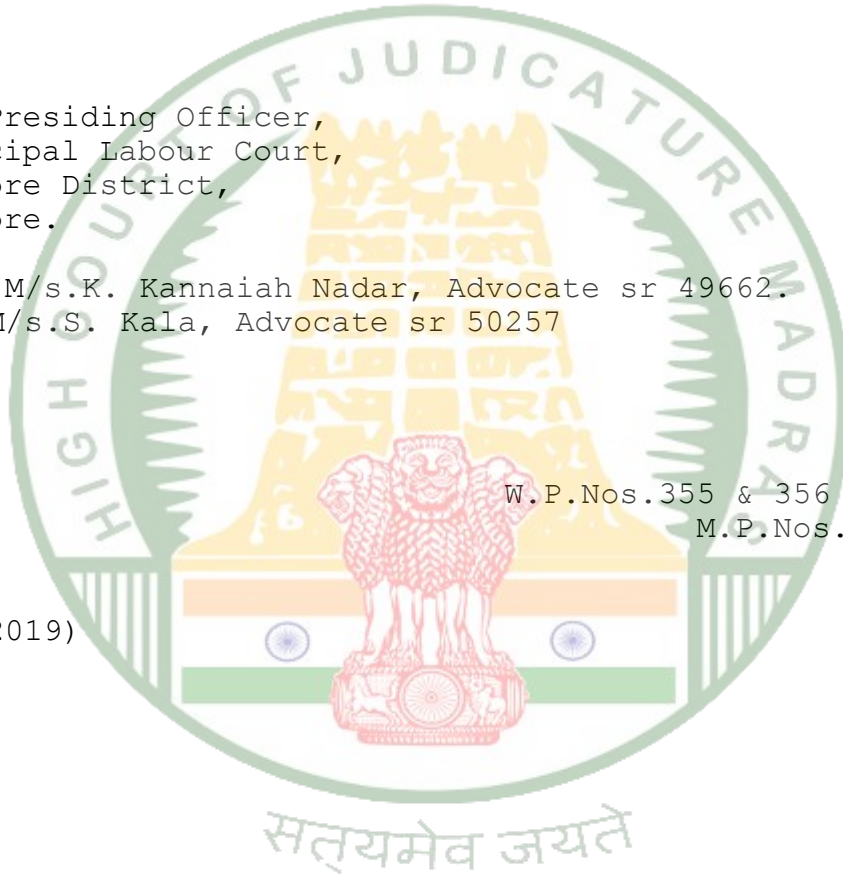
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To

The Presiding Officer,
Principal Labour Court,
Vellore District,
Vellore.

+2 Ccs to M/s.K. Kannaiah Nadar, Advocate sr 49662.
+1 CC to M/s.S. Kala, Advocate sr 50257

W.P.Nos.355 & 356 of 2012 and
M.P.Nos.1,1 of 2012

PPA(CO)
SP(29/07/2019)



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