

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.33441 & 33442 of 2013
and
M.P.Nos.1 & 1 of 2013

W.P.No.33441 of 2013

1.The Management of
Durga Industries,
No.R-14, 6th Main Road,
Anna Nagar,
Chennai 600 040.

2.Mrs.Durga Lakshmi
Proprietrix,
M/s.Rajan Engineering Works,
Flat No.7, 3rd Floor,
Old No.15, New No.46,
6th Main Road,
Anna Nagar, Chennai 600 040.

... Petitioners

Vs.

1.Presiding Officer,
I Additional Labour Court,
Chennai.

2.S.Shankar.

...Respondents

Prayer in W.P.No.33441/2013 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the 1st Respondent, quash the exparte Award passed by the 1st Respondent Labour Court, dated 01.02.2010 in I.D.No.192 of 2006 and the order dated 20.11.2013 passed by the 1st Respondent Labour Court in I.A.No.622 of 2013 in I.D.No.192 of 2006 and consequently, direct the 1st Respondent Labour Court to decide I.D.No.192 of 2006 on its merits and in accordance with law.

W.P.No.33442 of 2013:

1.The Management of
Durga Industries,
No.R-14, 6th Main Road,
Anna Nagar,
Chennai 600 040.

2.Mrs.Durga Lakshmi
Proprietrix,
M/s.Rajan Engineering Works,
Flat No.7, 3rd Floor,
Old No.15, New No.46,
6th Main Road,
Anna Nagar, Chennai 600 040.

... Petitioners

Vs.

1.Presiding Officer,
I Additional Labour Court,
Chennai.

2.D.Rajendran(died)

3.Mrs.R.Kalaivani

4.Minor.R.Vishali

5.Minor.R.Priyadharshini

6.Mrs.D.Gandhimathi ...Respondents
(RR3 to 6 brought on record as Lrs of the deceased
R2 Vide order of Court dated 20.11.2019 made in
MP.No.1/2014 in W.P.No.33442/2013)
Minor rep by Natural guardian R.Kalyani-R3

Prayer in W.P.No.33442/2013 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the 1st Respondent, quash the exparte Award passed by the 1st Respondent Labour Court, dated 28.01.2010 in I.D.No.191 of 2006 and the order dated 20.11.2013 passed by the 1st Respondent Labour Court in I.A.No.619 of 2013 in I.D.No.191 of 2006 and consequently direct the 1st Respondent Labour Court to decide I.D.No.191 of 2006 on its merits and in accordance with law.

For Petitioners : Mr.Balan Haridas in both W.Ps

For Respondents : R1 - Labour Court in both W.Ps

Ms.D.Mary Rose for R2
in W.P.No.33441 of 2013

Ms.D.Mary Rose for RR2 to 5
in W.P.No.33442 of 2013

O R D E R

The exparte award passed by the first respondent Labour Court in I.D.No.192 of 2006 dated 01.02.2010 and I.D.No.191 of 2006 dated 28.01.2010 and the orders dated 20.11.2013 passed by the first respondent, Labour Court in I.A.No.622 of 2013 in I.D.No.192 of 2006 and I.A.No.619 of 2013 in I.D.No.191 of 2006 are under challenge in the present writ petition.

2.The writ petitioner is the Management of Durga Industries. The respondents were the employees of the writ petitioner/ Management and they raised Industrial Disputes challenging the non-employment.

3.The learned counsel appearing on behalf of the writ petitioner states that they have not received the summons issued by the Labour Court on account of the change of address and therefore, the reason for non appearance was genuine and on certain bonafide grounds. However, the Labour Court passed an exparte award and thereafter, the petitioner filed an Interlocutory Applications to set aside the exparte order and to condone the delay in filing the petition to set aside the exparte order. Both the applications were dismissed and therefore, the petitioner is constrained to file the present writ petitions.

4.The reasons stated for non appearance before the Labour Court is that the petitioner did not receive the notice from the Labour Court on account of the fact that they have shifted the office. Those reasons are genuine and therefore, they must be given an opportunity to adjudicate the issues on merits.

5.This being the submission made, this Court is of the opinion that all the issues are to be decided on merits. In normal circumstances, Courts would not encourage the execution of exparte awards. The awards decided on merits are to be executed and in the event of any exparte order, the matter is to

be remanded back. However, if the intention of the parties are otherwise, having allowed the Court to pass an exparte order with an intention to prolong and protract the matter, then the Courts would not interfere, in all other circumstances, wherever some genuine reasons are given, the parties must be given an opportunity to adjudicate the issues on merits.

6.Under these circumstances, the exparte award passed by the first respondent Labour Court in I.D.No.192 of 2006 dated 01.02.2010 and I.D.No.191 of 2006 dated 28.01.2010 and the orders dated 20.11.2013 passed by the first respondent, Labour Court in I.A.No.622 of 2013 in I.D.No.192 of 2006 and I.A.No.619 of 2013 in I.D.No.191 of 2006 are quashed. The first respondent Labour Court is directed to restore the petitions and the Industrial Disputes on file and adjudicate the Industrial Disputes by affording opportunity to all the parties and dispose of the same on merits and in accordance with law and dispose of the same as expeditiously as possible. Accordingly, the writ petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

tsg

To

The Presiding Officer,
I Additional Labour Court,
Chennai.

+1cc to M/s.Balan Haridass, Advocate Sr.97349

W.P.Nos.33441 & 33442 of 2013
and
M.P.Nos.1 & 1 of 2013

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srg 31/01/2020