

W.M.P.No.35806 of 2016
in W.P.No.40241 of 2005

T.S.SIVAGNANAM, J.

This writ miscellaneous petition has been filed to condone the delay of 301 days in filing the petition for restoration.

2.Heard Mr.M.Rajasekar, learned counsel for the petitioner/Slum Clearance Board; and M/s.Kanimozhi Mathi, learned counsel for the 2nd respondent/workman.

3.Firstly, I take up for consideration as to whether sufficient cause has been shown by the petitioner/Board for condoning the inordinate delay of 301 days. Except for the averment in paragraph 7, there are no reasons given for the inordinate delay. Change of counsel of the petitioner/Board cannot be taken as a reason for condonation of delay. That apart, no particulars have been given as to on what date there was change of counsel, when the papers were returned to the Board, etc. Therefore, I reject the affidavit filed in support of this condone delay petition as being devoid of reasons.

4.Further, from the counter affidavit filed by the 2nd respondent, it is seen that parallel proceedings were going on before the Labour Court

in C.P.No.76 of 2006 in I.D.No.15 of 1991. In the said proceedings, the petitioner/Board was appearing and an execution petition was also filed by the 2nd respondent in E.P.No.67 of 2018 which was also pursued by the petitioner/Board. Therefore, even if any reason is given before this Court for not noticing the dismissal of the writ petition, the said reason should be outrightly rejected because, the petitioner/Board was contesting the proceedings initiated by the 2nd respondent before the Labour Court.

5.The second aspect to be seen is with regard to the merits of the matter. This has been done at the request of the learned counsel for the petitioner.

6.On a perusal of the award passed by the Labour Court, I find that the Labour Court has examined two witnesses; one on the side of the workman as WW1; and the other on the side of the Management as MW1. On the side of the workman, ten documents were marked as Ex.W1 to Ex.W10; and on the side of the Management, four documents were marked as Ex.M1 to Ex.M4. After considering the factual position, the Labour Court noted that in spite of earlier orders passed by the Labour Court, the Management did not produce any documents and therefore, drew adverse inference.

7. In my considered view, there is no perversity in the approach of the Labour Court and consequently, the same needs to be confirmed and no grounds have been made out by the petitioner/Board to interfere with the reasoned award passed by the Labour Court. Hence, on that ground also, the writ petition stood failed.

8. Accordingly, this writ miscellaneous petition is dismissed. No costs. The 2nd respondent is entitled to withdraw the amount which is lying in deposit before the Labour Court by filing a petition before the Labour Court.

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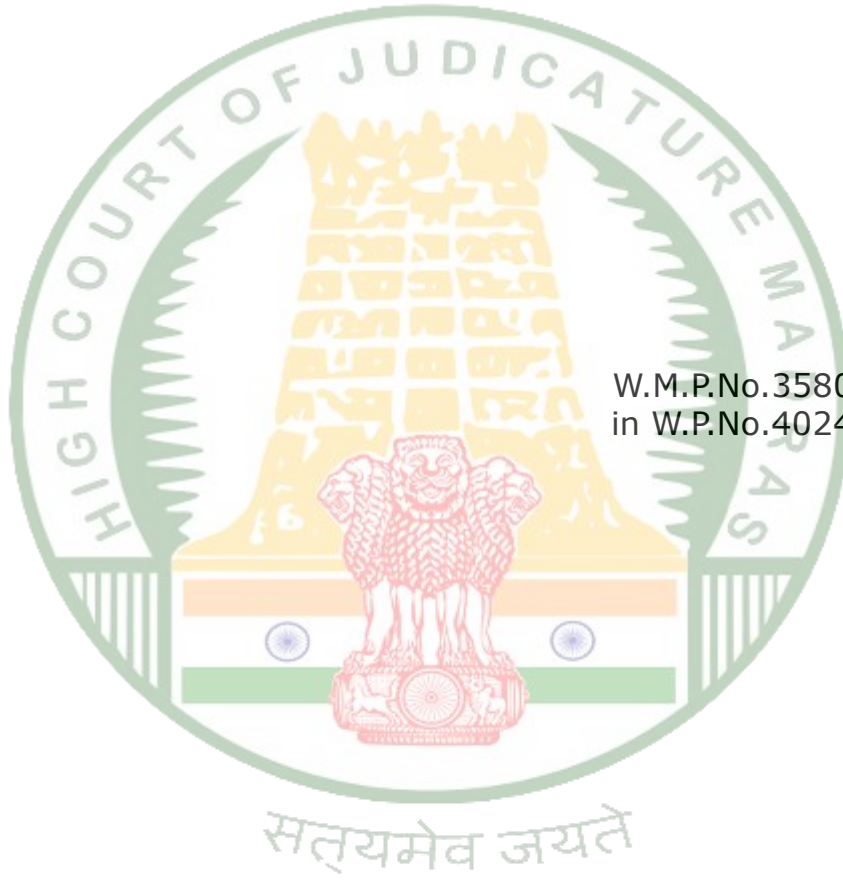
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T.S.Sivagnanam, J.

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