

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

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

W.P.Nos.19403 of 2018
and
W.M.P.No.22831 of 2018

M/s.Venkatramana Paper Mills Private Ltd.,
Puthupeerkadavu Village,
Sathyamangalam Taluk,
Erode District,
Rep.by its Director,
S.Kadarkarai ...Petitioner

Vs.

1.Mr.S.Senthilkumar

2.M/s.SAM Turbo Industries Private Limited
Avinashi Road, Nilambur,
Coimbatore - 641 062 ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for records relating to the order passed by the Labour Court, Salem dated 09.05.2018 made in un-numbered E.A....of 2018 (CFR No.487 of 2018) in E.P.No.1 of 2016 in I.D.No.122 of 2007 and to quash the same and consequently direct the Hon'ble Labour Court, Salem take un-numbered E.A...of 2018 (CFR No.487 of 2018) in E.P.No.1 of 2016 in I.D.No.122 of 2007 on file and to number it and decide the same on merits.

For Petitioner : Mr.R.Jayaprakash

For Respondent : R1 - Mr.V.Ajoy Khose
R2 - No appearance

O R D E R

The relief sought for in the present writ petition though wider, the learned counsel appearing on behalf of the writ petitioner during the course of arguments, restricted the relief by stating that it is suffice, if a direction is issued to dispose of the application filed by the writ petitioner on 1st March 2018 in CFR No.487/2018 in E.P.No.1 of 2016 in I.D.No.122 of 2007.

2. The Execution Petition was filed in E.P.No.1 of 2016 with a prayer to adjudicate the claim and release the immovable properties mentioned in the description of properties from the attachment.

3. The grievances of the writ petitioner is that the petition filed is not yet taken up for hearing and the Labour Court refused to number the petition by stating that the case is covered by the transfer of undertaking by the 2nd respondent to 1st respondent.

4. However, the learned counsel for the petitioner states that it is factually incorrect and the objections raised by the Labour Court is not in accordance with the facts and circumstances. Under these circumstances, the Labour Court is bound to hear the petitioner and taking the petition on file and pass orders one way or other.

5. This being the limited request now made before this Court, this Court is of an opinion that all such petitions are to be taken on file for the purpose of hearing and the question regarding the maintainability or otherwise also, may be decided by the Labour Court on hearing the parties concerned. All such objections raised by the parties or otherwise is to be considered on merits and an order is to be passed. Contrarily, the petitions filed cannot be kept pending without any valid reason or return the same on the ground, which is now disputed by stating that the Labour Court has returned the petition on certain erroneous facts.

6. Under these circumstances, the petitioner is permitted to re-present the petition/application filed before the Labour Court at Salem and on such re-presentation, the Labour Court, Salem is directed to number the petition, hear the same by affording opportunity to all the parties concerned and dispose of the petition on merits and in accordance with law, including the maintainability or otherwise as expeditiously as possible.

7. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

To

Presiding Officer,
Labour Court, Salem

+1cc to Mr.R.Jayaprakash, Advocate SR.No.97458

+1cc to Mr.V.Ajoy Khose, Advocate SR.No.96945

W.P.No.19403 of 2018

VBA (CO)
GMY (22/01/2020)



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