

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.09.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.26309 of 2019
and W.M.P.No.25659 of 2019

M/s.Dinacheithi-Tamil Daily Paper,
Rep.by the Editor, Publisher,
Mr.R.A.Jebaraj,
1st Cross Street, 2nd Avenue,
Ashok Nagar, Chennai-600083.

...Petitioner

vs.

1. The District Collector,
Chennai District,
Collectorate, Chennai-600 001.
2. The Joint Commissioner of Labour-1,
Authority under the Payment of Wages Act,
Chennai-600 006.
3. The Deputy Commissioner of Labour-1,
Controlling Authority under the Payment of Wages Act,
Chennai-600 006.
4. The Tahsildar,
Mambalam Taluk,
Chennai-600 078.

5. Mr.T.Sankaran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed by the 2nd respondent in Na.Ka.No.A2/3262/2018 dated 12.12.2018 in pursuance of order passed in B2/6294/16 dated 11.08.2018 and consequential order passed by the 1st respondent in Pro.No.G3/20185/2018 dated 16.10.2018 and quash the same and direct the 2nd respondent to entertain petitioner's application for set aside the ex-parte order dated 02.01.2018 passed in P.W.Case No.10 of 2016 along with condone delay petition on the file of 3rd respondent.

For Petitioner : S.Pushpakaran

For Respondents : Mr.M.Elumalai
Government Advocate for RR1 to 4.

O R D E R

The order dated 16.10.2018 passed by the District Collector of Chennai, delegated the powers under Section 5 of the Tamil Nadu Revenue Recovery Act 1864 and authorized the Tahsildar, Mambalam Taluk to invoke the provisions of Revenue Recovery Act to recover the amount of Rs.31,666/- from the defaulter by way of demand draft in favour of the Joint Commissioner of Labour-1, Chennai-6, is under challenge in the present writ petition.

2. The writ petitioner is Dinacheithi-Tamil Daily paper, represented by the Editor. The 5th respondent/workman herein filed a petition in P.W.Case No.10 of 2016 before the 3rd respondent under Payment of Wages Act, 1936 and allegedly claimed wage dues for the period from May 2016 to August 2016. Thereafter, the ex-parte order was passed on 20.01.2018.

3. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner filed a petition to set aside the ex-parte order and to condone the delay in filing the petition. Both the petitions are now pending and are yet to be numbered. Contrarily, a communication was received by the writ petitioner stating that such a petition cannot be entertained. Meanwhile, the workman instituted an application for recovery of the award amount and accordingly, the District Collector, Chennai directed the Tahsildar Mambalam to invoke the provisions of Revenue Recovery Act and to recover the said award amount from the defaulter and pay the same by way of demand draft to the Joint Commissioner of Labour-1, Chennai-6. It is pertinent to note that by the impugned order, the second respondent delegated powers under Section 5 of the Tamil Nadu Revenue Recovery Act, 1864 and authorized the Tahsildar Mambalam to recover the said amount in proceedings dated 16.10.2018 and the present writ petition is filed on 28.10.2019, after a lapse of 12 months.

4. However, this Court cannot interfere with the consequential proceedings issued by the District Collector for the purpose of recovering the Award amount by invoking the provisions of the revenue Recovery Act. Admittedly, the Award

was also passed and the writ petitioner has also filed a writ petition to set aside the ex-parte award. It is for the writ petitioner to work out his remedy in the manner known to law. Contrarily, consequential proceedings of recovery cannot be challenged in a writ proceedings, so as to dilute the award granted in favour of the 5th respondent/workman. Thus, the writ petitioner is at liberty to work out his remedy in the manner known to law by approaching the competent forum for the purpose of dealing with the ex-parte order and he cannot file a writ petition challenging the order passed by the District Collector to recover the award amount from the defaulter.

5. Taking note of the fact that the writ petitioner has already filed a writ petition, four weeks time is granted to pursue the matter, failing which, the District Collector as well as the Tahsildar is empowered to proceed with the recovery proceedings and to recover the said amount and pay the same in favour of the Joint Commissioner of Labour-1, Chennai-6, as per the directions passed by the District Collector in the impugned proceedings dated 16.10.2018. Accordingly, the impugned order passed by the first respondent in Pro.No.G3/20185/2018 dated 16.10.2018 is kept in abeyance for a period of four weeks from the date of receipt of a copy of this order and if the petitioner has failed to initiate any further action in respect of the original award, then the respondents are directed to proceed with the recovery proceedings under the provisions of the Revenue Recovery Act and recover the said award amount and pay the same in favour of the beneficiary as expeditiously as possible.

6. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(Insp.Cell)

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Sub Assistant Registrar

To

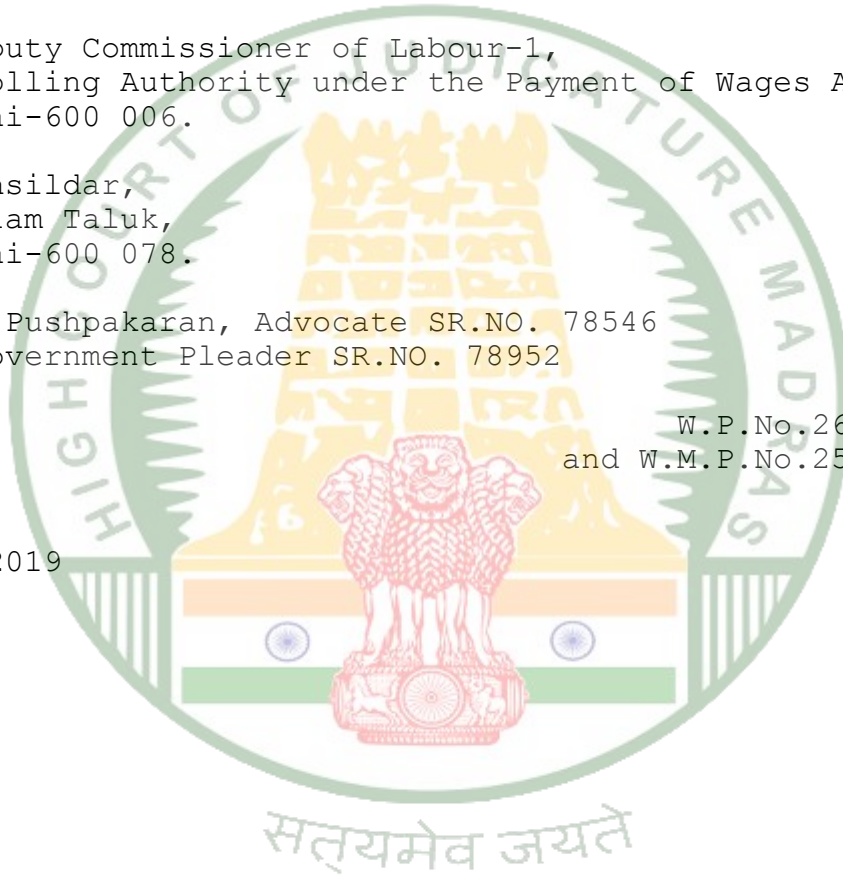
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+1cc to S.Pushpakaran, Advocate SR.NO. 78546

+1cc to Government Pleader SR.NO. 78952

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nr 31/10/2019



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