

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.31341 of 2019
and
W.M.P.No.31510 of 2019

The Authorised Officer of the
Industrial Finance Corporation of India
Continental Chambers
No.142, Mahatma Gandhi Road,
Post Box 3318, Chennai-600 034.
Rep. by its Deputy General Manager (Law) ...Petitioner

vs.

1. Five Member Committee of the Workers of
Sri Seetha Venkatesh Mills Limited
No.11, Anbu Estate Extension, Birla Avenue,
Kadirvedu, Chennai-600 066.
2. Sri Seetha Venkatesh Mills Limited
Kadirvedu, Puzhal Post
Chennai - 600 066. ...Respondents

Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the Principal Labour Court,
Chennai, dated 03.09.2019 in I.A.No.2 of 2019 in I.A.No.126
of 2018 in I.D.No.242 of 2012 and quash the same.

For Petitioner : Mr.G.Anand
for M/s.T.S.Gopalan and Co.,
For Respondents : Mr.K.Elango, for R1
Mr.M.Elanchezian, for R2

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The petitioner is a financial institution. The first respondent herein raised an industrial dispute before the Labour Court, Chennai, in I.D.No.242 of 2012 under Section 2 (k) of the Industrial Disputes Act, 1947, seeking certain relief against the second respondent-Management.

2. It is the case of the second respondent-Management that the petitioner-Financial Institution, which sanctioned credit facilities to the second respondent, brought the secured assets for sale in accordance with the provisions of

the SARFAESI Act, and that the properties were sold. Therefore, the second respondent-Management filed I.A.No.126 of 2018 in I.D.No.242 of 2012 for impleading the petitioner herein as a party/respondent to the said industrial dispute. The said application was allowed on 08.01.2019. Seeking to set aside the said order dated 08.01.2019 and to rehear I.A.No.126 of 2018, the petitioner herein filed I.A.No.2 of 2019. The grievance of the petitioner before the Labour Court is that in I.A.No.126 of 2018, the petitioner herein was not at all shown as a party/respondent and that the said Interim Application was allowed, without even issuing notice to the petitioner. However, the Labour Court rejected I.A.No.2 of 2019 by stating that the petitioner herein having been made as a party, is having liberty in the main application to put forth their case. Challenging the said order made in I.A.No.2 of 2019 dated 03.09.2019, the present writ petition is filed.

3. The learned counsel for the petitioner contended that the Labour Court has impleaded the petitioner herein as party/respondent in the above interim application without there being a proper application filed by the Management and that the said interim application itself was allowed without issuing notice to the petitioner. Whether the petitioner is a necessary party or not, is to be considered and decided only after hearing the petitioner and not behind their back, is the further contention of the learned counsel.

4. The learned counsels appearing for the respondents 1 & 2, on the other hand, though contended that the petitioner is a necessary party before the Labour Court, are fair enough to admit the fact that the impleading of the petitioner in the industrial dispute was not made through proper course. Therefore, both of them contended that the matter may be remitted back to the Labour Court for filing proper application by the Management once again for the purpose of impleading the petitioner as party/respondent.

5. There is no dispute to the fact that the above industrial dispute was filed against the second respondent-Management and that the petitioner herein was not a party originally in the said industrial dispute. However, when the Management wanted to implead the petitioner as party/respondent and though they filed an application for such purpose, it is seen that the said application was not properly filed by naming the petitioner as one of the respondents in the said application, sought to be impleaded as respondent in the industrial dispute. On the other hand, in the said I.A.No.126 of 2018, the first respondent herein alone was shown as the respondent. It is not known as to how the Labour Court has chosen to allow the application, that too, without issuing notice to the proposed party viz., the petitioner herein, even though they were not shown as

proposed party/respondent in I.A.No.126 of 2018.

6. Therefore, I find that the order of the Labour Court in allowing I.A.No.126 of 2018 is not correct and therefore, it is for the second respondent-Management to file a fresh application to implead the petitioner herein as a party/respondent therein. Needless to say that it is open to the petitioner to place their objections before the Labour Court on receipt of notice in the fresh application for impleadment.

7. Accordingly, this Writ Petition is allowed and the order passed in I.A.No.126 of 2018 dated 08.01.2019 is set aside. Consequently, the order passed in I.A.No.2 of 2019 dated 03.09.2019 is also set aside. The second respondent-Management is at liberty to file a fresh application for impleading the petitioner herein as a party/respondent in the above industrial dispute. If any such application is filed, the Labour Court shall issue notice to the petitioner and hear the implead petition and pass appropriate orders on merits and in accordance with law, after hearing all the parties concerned. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To,
The Principal Labour Court,
Chennai.

+1cc to Mr.K.Elango , Advocate SR.No. 102418

+1cc to Mr.T.S.Gopalan and co , Advocate SR.No. 102841

+1cc to Mr.M.Elanchezian , Advocate SR.No. 102381

W.P.No.31341 of 2019

A.SK(10/01/2020)