

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.08.2019
Pronounced on : 21.08.2019

CORAM

THE HONOURABLE DR. JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

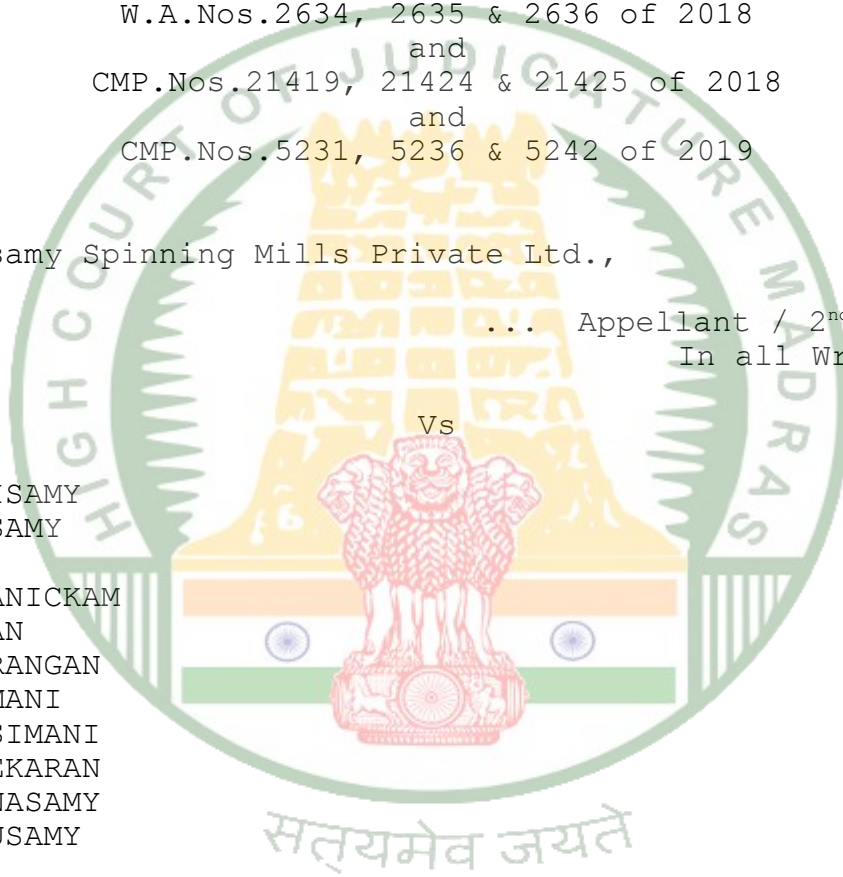
W.A.Nos.2634, 2635 & 2636 of 2018
and
CMP.Nos.21419, 21424 & 21425 of 2018
and
CMP.Nos.5231, 5236 & 5242 of 2019

M/s.Kandasamy Spinning Mills Private Ltd.,

... Appellant / 2nd respondent
In all Writ Appeals

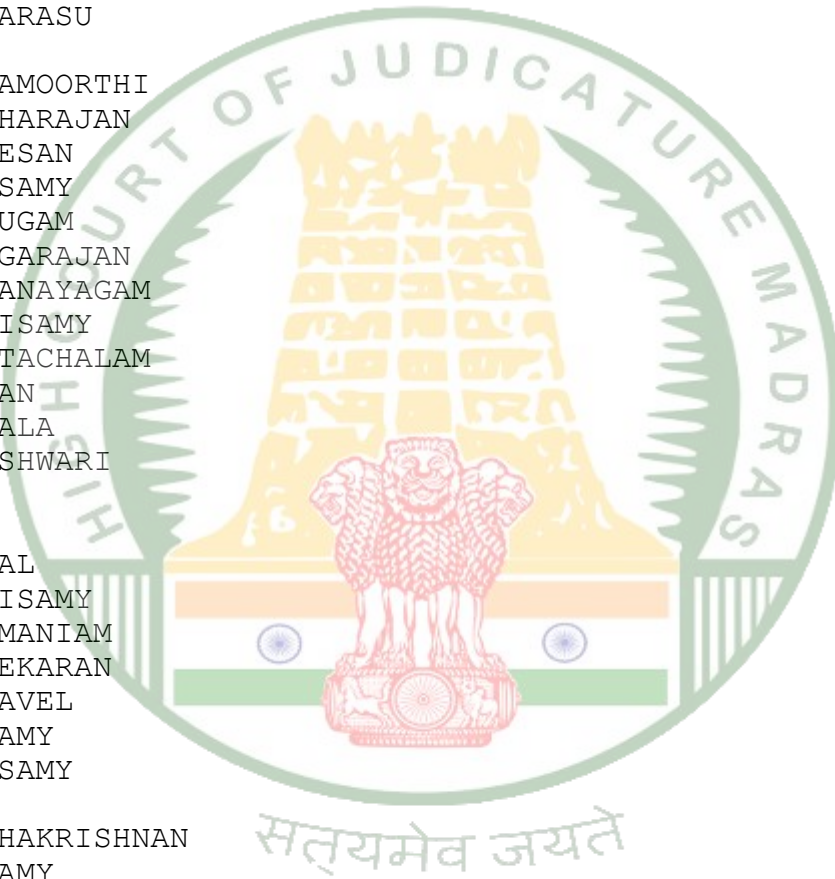
Vs

- 1 S.PALANISAMY
- 2 G.MUTHUSAMY
- 3 M.MANI
- 4 R.RAJAMANICKAM
- 5 T.GANESAN
- 6 N.PANDURANGAN
- 7 K.JOTHIMANI
- 8 P.THULASIMANI
- 9 M.GUNASEKARAN
- 10 K.CHINNASAMY
- 11 P.PONNUSAMY
- 12 M.MANI
- 13 V.ARUMUGAM
- 14 MADESWARI
- 15 KARUNAKARAN
- 16 KASILINGAM
- 17 DHANALAKSHMI
- 18 V.MUTHUSAMY
- 19 V.PONNUSAMY
- 20 RADHA
- 21 SARAVANAN
- 22 MEENATCHI
- 23 A.NARAYANASAMY
- 24 V.RAMASAMY



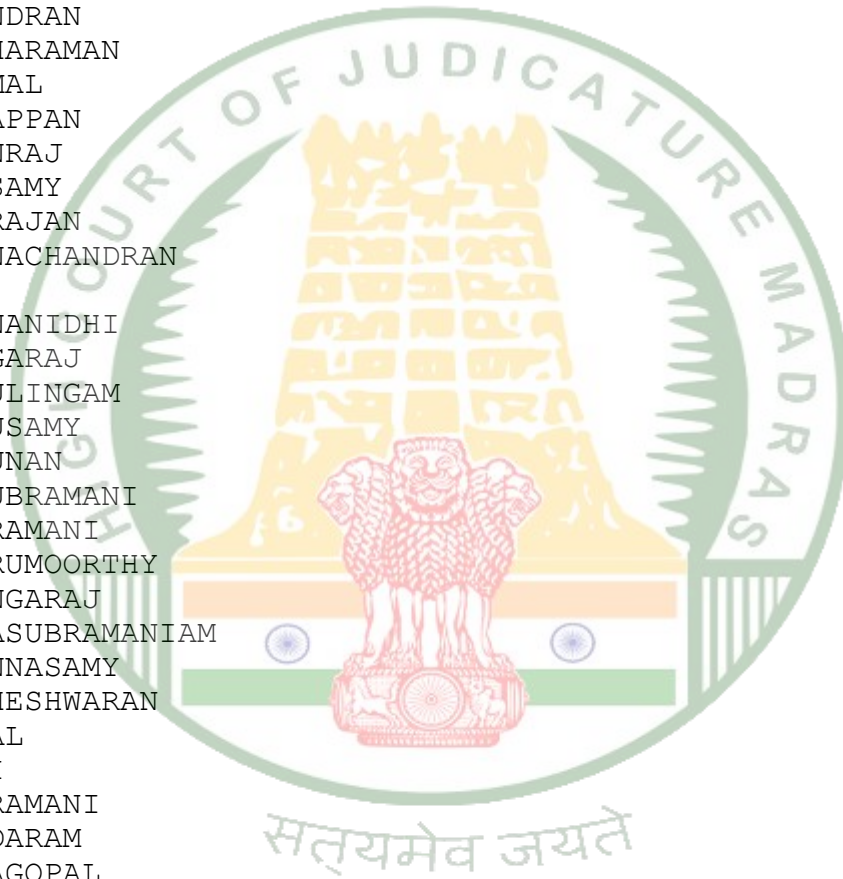
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25 R.DHANAPAL
26 A.PALANISAMY
27 PALANIAMMAL
28 P.VASANTHI
29 KANCHANA
30 PRABHU
31 GANDHIMATHI
32 RAMESH
33 DEVARAJ
34 T.SUBRAMANIAM
35 R.KESAVAN
36 R.MANOCHARAN
37 N.MOZHARASU
38 C.MANI
39 P.ESWARAMOORTHY
40 M.VARATHARAJAN
41 A.MURUGESAN
42 K.KUPPUSAMY
43 R.SHANMUGAM
44 K.THIYAGARAJAN
45 A.PERIYANAYAGAM
46 R.PALANISAMY
47 K.VENKATACHALAM
48 P.GANESAN
49 SAGUNTHALA
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53 B.PERUMAL
54 C.PALANISAMY
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57 P.THANGAVEL
58 T.VELUSAMY
59 P.MALAIKAMY
60 S.SUBBU
61 A.S.RADHAKRISHNAN
62 T.RAMASAMY
63 N.PERUMAL
64 K.K.MANICKAM
65 A.VELUSAMY
66 M.KAMARAJ
67 A.SUBRAMANIAM
68 R.JANARTHANAN
69 D.MICHELRAJ
70 M.RAJENDERAN
71 A.SUBRAMANI
72 R.THIYAGARAJAN
73 K.P.SELVARAJ
74 M.PONKKIANNAN



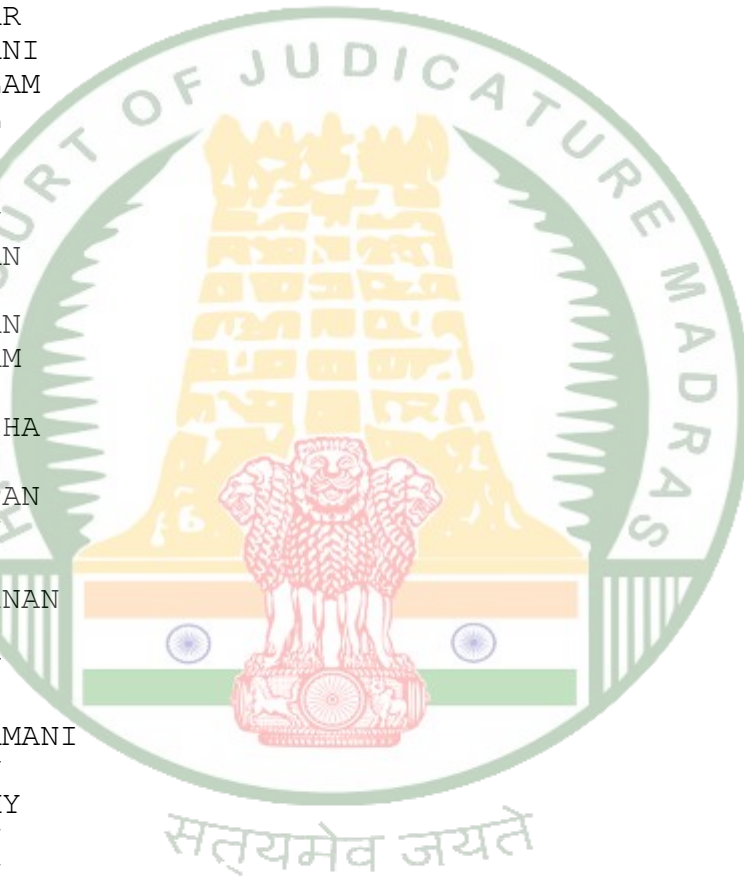
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75 K.KARTHIVEL
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81 P.PALANISAMY
82 M.P.BABU
83 LAKSHMI
84 MADESWARAN
85 KARTHICK
86 MARAYEE
87 S.RAJENDRAN
88 S.SEETHARAMAN
89 V.PERUMAL
90 K.MADHAPPAN
91 S.MOHANRAJ
92 C.RAMASAMY
93 T.NAGARAJAN
94 S.POORNACHANDRAN
95 R.MANI
96 O.KARUNANIDHI
97 S.THANGARAJ
98 A.SAMBULINGAM
99 S.MUTHUSAMY
100 C.ARJUNAN
101 K.A.SUBRAMANI
102 A.SUBRAMANI
103 B.THIRUMOORTHY
104 C.THANGARAJ
105 P.BALASUBRAMANIAM
106 A.CHINNASAMY
107 R.MADHESHWARAN
108 K.GOPAL
109 K.RAVI
110 M.SUBRAMANI
111 P.SUNDARAM
112 M.RAJAGOPAL
113 S.ANDAVAR
114 K.RAJI
115 V.RAMANATHAN
116 S.THANGAVEL
117 V.BALASUBRAMANI
118 N.NATARAJAN
119 R.SELLAVEL
120 K.DAKCHINAMOORTHY
121 N.ASHOKKUMAR
122 K.CHINNASAMY
123 V.KRISHNAMOORTHY
124 R.RAMACHANDRAN



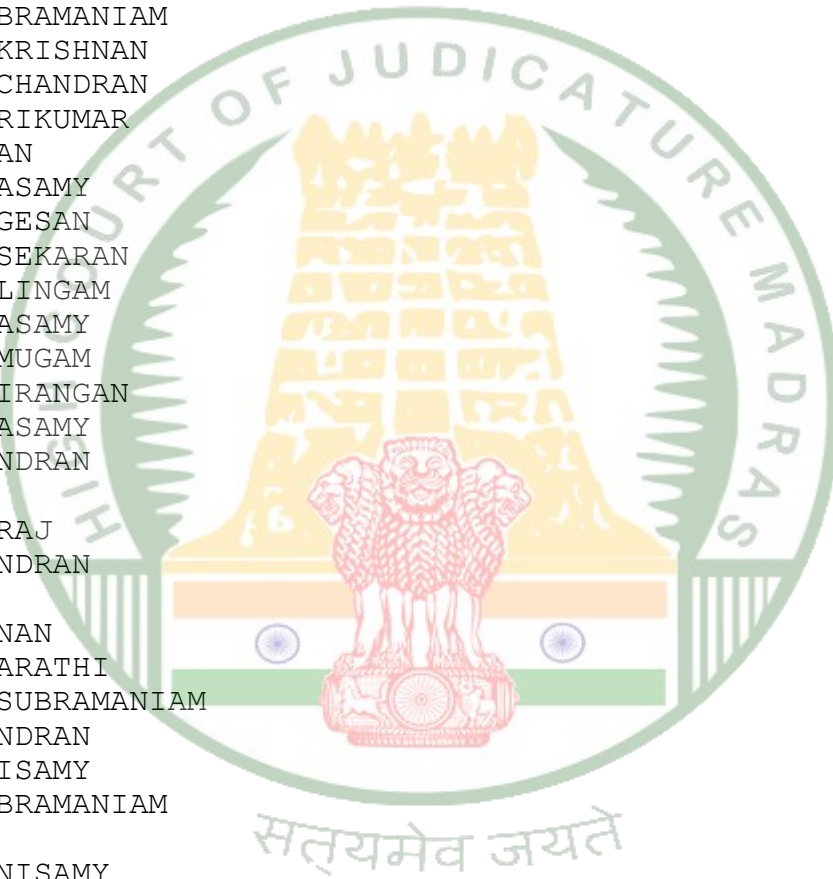
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134 R.S.RAMASAMY
135 N.SHANMUGAM
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137 A.UDAYAKUMAR
138 M.THULASIMANI
139 R.ARUNACHALAM
140 A.KATHIRVEL
141 B.MUNUSAMY
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143 G.RAJENDRAN
144 C.LOGANATHAN
145 R.RAJAN
146 P.PERIYANNAN
147 K.SIVALINGAM
148 N.MOORTHY
149 A.ABDUL BASHA
150 K.RAMASAMY
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168 M.S.SARAVANABHAVA
169 P.SHANMUGAM
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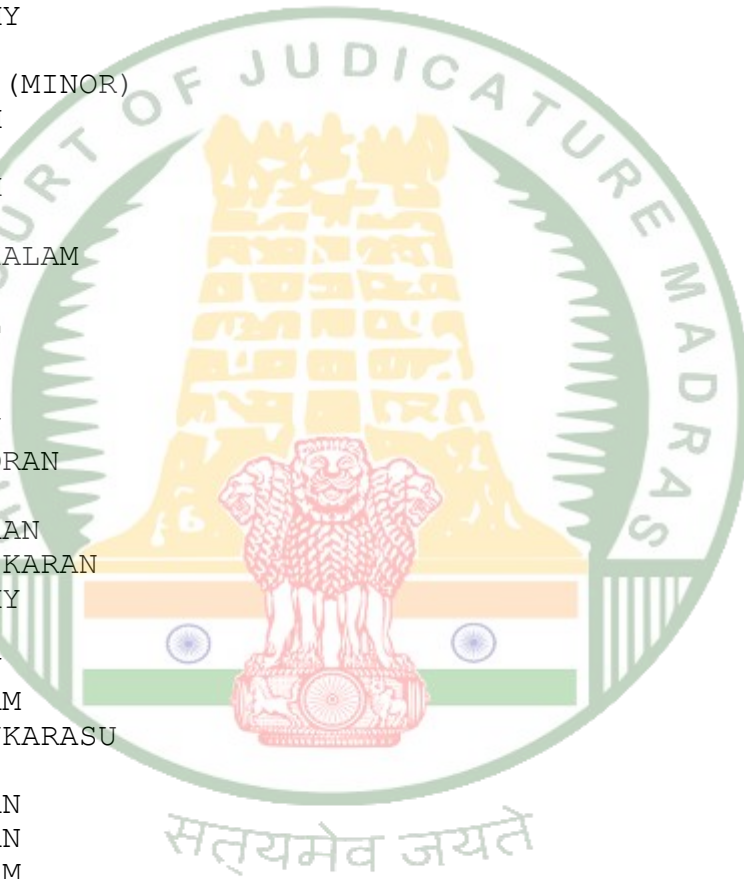
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175 V.ESWARAN
176 K.KANAGARATHINAM
177 TAMILSELVI
178 SATHYA (MINOR)
179 P.RANGASAMY
180 V.VISWANATHAN
181 K.PERIYASAMY
182 S.GANESAN
183 R.KUMAR
184 S.MAGENDRAN
185 K.KUMAR
186 N.LOGANATHAN
187 C.M.SUBRAMANIAM
188 B.BALAKRISHNAN
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206 J.G.BHARATHI
207 M.BALASUBRAMANIAM
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216 M.SAMINATHAN
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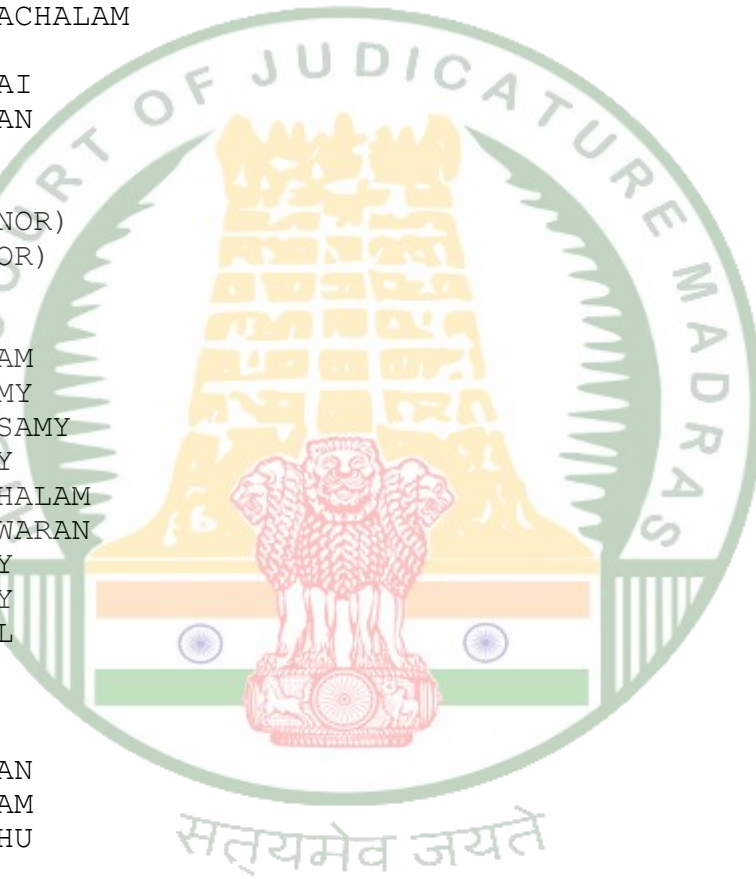
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225 A.R.KUPPUSAMY
226 V.BALU
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232 R.SANTHALINGAM
233 S.MANICKAM
234 C.AYYASAMY
235 C.NAGARAJ
236 G.RAMASAMY
237 A.PALANISAMY
238 MALLIKA
239 S.M.VASUKI (MINOR)
240 V.SHANMUGAM
241 M.SELVARAJ
242 S.SHANMUGAM
243 S.GANESAN
244 C.VENKATACHALAM
245 A.RAJU
246 K.THANGAVEL
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274 P.MURUGESAN



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275 M.SHANMUGAM
276 A.SYED MOHAMED
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291 R.ARUMUGAM
292 R.SUMANTHI
293 SOWMIYA (MINOR)
294 SANTHA (MINOR)
295 PONGIAMMAL
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297 K.N.ARUMUGAM
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311 C.JOTHIMUTHU
312 PUSPALATHA
313 DEEPANRAJ
314 G.KRISHNAMOORTHY
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316 P.MARIAPPAN
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323 S.KANNIYAMMAL
324 M.KRISHNAVENI



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332 V.VISALATCHI
333 K.VIJAYA
334 K.PUSHPA
335 BUVANESHWARI
336 SATHISHKUMAR (MINOR)
337 NIRMALKUMAR (MINOR)
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353 A.ANGUKANNAN
354 S.GOVINDAN
355 V.KUPPUSAMY
356 C.P.RAJENDRAN
357 K.MATHESWARAN
358 M.ARUMUGAM
359 S.RAVI
360 V.KUMARASAMY

361 The Presiding Officer,
Labour Court,
Hasthampatti, Salem.

... Respondents 1 to 360
In all Writ Appeals/Petitioners in W.P.
... Respondent 361 In all Writ Appeals / 1st Respondent in W.P

These Writ Appeals filed under Clause 15 of the Letters Patent, against the order dated 14.03.2018 passed by the learned Single Judge in W.P.Nos.19670 to 19672 of 2010 on the file of this Court.

WP No.19670 of 2010

This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the orders of the 1st respondent Labour Court dt. 16.04.2009 in I.D.Nos. 88 of 2004 to 397 of 2004 and 671 of 2004 to 694 of 2004, quash the same and consequently direct the 1st respondent Labour Court to hear and decide on merits the issue relating to the non-employment of the workers concerned and pass appropriate Award granting relief to the workers together with costs.

WP No.19671 of 2010

This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus Calling for the records relating to the orders of the 1st respondent Labour Court dt. 8.4.2002 in I.A.No.8/2001 in I.D.No.123 of 1998, quash the same and consequently direct the 1st respondent Labour Court to hear and decide on merits the issue relating to the non-employment of the workers concerned and pass appropriate Award granting relief to the workers together with costs.

WP No.19672 of 2010

This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus Calling for the records relating to the orders of the 1st respondent Labour Court dt. 16.04.2009 in I.A.Nos. 197 of 2008 to 530 of 2008 in I.D.Nos. 88 of 2004 to 397 of 2004 & 671 of 2004 to 694 of 2004, quash the same and consequently direct the 1st respondent Labour Court to hear and decide on merits the issue relating to the non-employment of the workers concerned and pass appropriate Award granting relief to the workers together with costs.

For Appellant : Mr.N.Manoharan
In all Writ Appeals

For RR1 to 360 : Mr.K.Srinivasmurthy
For M/s.Row & Reddy
In all Writ Appeals

COMMON JUDGMENT

C.V.KARTHIKEYAN, J.

The Writ Appeals have been filed calling into question the common order dated 14.03.2018 of the learned Single Judge in W.P.Nos.19670 to 19672 of 2010, whereby, the learned Single Judge had set aside the award passed by the 1st respondent, the

Labour Court, Salem, dated 16.04.2009 in I.D.Nos.88 of 2004 to 397 of 2004 and 671 of 2004 to 694 of 2004 and also the order passed by the same Court in I.A.Nos.197 to 530 of 2008 in I.D.Nos.88 of 2004 to 397 of 2004 and 671 of 2004 to 694 of 2004 also dated 16.04.2009 and had consequently, allowed W.P.Nos.19670 of 2010 and 19672 of 2010.

2. By the said common order, the learned Single Judge had remanded all the Industrial Disputes back to the Labour Court, Salem, and had further directed the Labour Court to expeditiously adjudicate the disputes between the Workmen and the Management on merits and in accordance with law, preferably within a period of 9 months from the date of receipt of a copy of the common order.

3. The dispute between the Workmen and the Management had been a long standing affair with no end in sight. The parties have been meandering around in circles, going no where. They have finally ended up before this Court of law seeking adjudication of their disputes which originally arose on 26.12.1981. On that date, the workmen Union by name Periyar Mavatta Nool Aalai Thozhilalargal Sangam had raised a set of demands. Eight months later on 27.08.1982, they gave a notice stating that they would go on strike from 11.09.1982. But they commenced their strike on 04.09.1982 itself. On 06.09.1982, there was a group clash among the workmen leading to the unfortunate death of one Subramaniam, in relation to which, First Information Report in Crime No.216 of 1982 was registered against 188 named workmen.

4. In the meanwhile, on 19.11.1983, a petition under Section 2(k) of the Industrial Disputes Act, 1947 was submitted to the Joint Commissioner of Labour, Chennai. He filed a failure report on 24.03.1984. The Government passed G.O.Ms.No.1721 on 01.08.1984 declining to refer the dispute for adjudication. In the criminal case registered and taken cognizance by the Sessions Court as S.C.No.15 of 1984, by judgment dated 31.07.1984, 23 workmen were convicted for various charges including the offence under Section 302 IPC. This conviction was set aside by a Division Bench of this Court in Crl.A.Nos.545 and 808 of 1984 by judgment dated 15.12.1988.

5. Thereafter, on 03.10.1989, the Union demanded reinstatement by filing a petition to the Deputy Commissioner of Labour, Coimbatore. On 21.11.1990, the Government declined to reconsider G.O.Ms.No.1721 dated 01.08.1984 and again refused to refer the dispute for adjudication. In January 1991, a writ petition in W.P.No.5055 of 1991 was filed against the said refusal order. This writ petition was dismissed on 19.01.1998. However, liberty was granted to the workmen to approach the

Labour Court, seeking reinstatement.

6. The workmen then filed 387 Industrial Disputes before the Labour Court Salem, on 03.04.1998 in I.D.Nos.123 to 129, 568 to 733 and 826 to 862 of 1998, and I.D.Nos.108 to 113 of 2000. The Management filed I.A.No.8 of 2001, under Section 11(1) of the Industrial Disputes Act, 1947 to try the issue of maintainability first. On 08.04.2002, I.A.No.8 of 2001 was allowed, on the ground that the workmen had not complied with Sec.2A(1) before raising the dispute.

7. Thereafter, the workmen then filed a petition under Section 2A of the Industrial Disputes Act, 1947, before the Labour Officer on 31.03.2003. The Labour Officer filed a report indicating failure of conciliation talks on 12.08.2003. Thereafter, again individual Industrial Disputes numbering 334 were raised before the Labour Court in I.D.Nos.88 to 397 and 671 to 694 of 2004. Once again, the Management filed I.A.Nos.197 to 530 of 2008 under Section 11(3) of the Industrial Dispute Act, 1947 to try maintainability as a preliminary issue. By order dated 16.04.2009, I.A.Nos.197 to 530 of 2008 were allowed and it was held that the Industrial Dispute Petitions were not maintainable. Consequently, on the same day, 16.04.2009 the Industrial Dispute Petitions mentioned above were also dismissed.

8. Thereafter, the workmen filed W.P.Nos.19670 to 19672 of 2010 to quash the three orders of the Labour Court namely, (i) order dated 08.04.2002 in I.A.No.8 of 2001 in I.D.No.123 of 1998, (ii) order dated 16.04.2009 in I.A.Nos.197 to 530 of 2008 in I.D.Nos.88 of 397 and 671 to 694 of 2004 and (iii) order dated 16.04.2009 in I.D.Nos.88 to 397 and 671 to 674 of 2004. By a common order dated 14.03.2018 which is impugned before us, the learned Single Judge allowed the writ petitions and remanded the matter back to the Labour Court, Salem for adjudication of the dispute on merits and in accordance with law.

9. The relevant portion of the learned Single Judge is extracted below for better appreciation:

"19. As regards the delay is concerned, the workers alone cannot be blamed since justice delivery system is also responsible for pendency of dispute before this Court and Labour Court. As saying was 'justice delayed is justice denied'. The workers have been denied all these years to have proper access to justice, as their claim is still not seen the light before appropriate judicial forum in regard to the merits of their claim. In industrial proceedings, the hyper

technicalities such as res judicata has to take the back-burner paving way to justice oriented approach. Even assuming res judicata is applied in this case, though this Court is of the contrary view, such principle can be applied only between two parties who are placed on equal footing and not between the workers and the management. Moreover, in the instant case, it is the Labour Court which driven the workers to resort to procedure contemplated under Section 2(A)(2) of the ID Act and having driven them to exhaust the procedure, cannot turn around and then dismiss their dispute on the principle of res judicata. Such approach brought and adopted by the Labour Court per say unreasonable and unjust and cannot stand the test of proper judicial scrutiny.

20. It is also rather unfortunate, the first respondent Labour Court, in its impugned award does not disclose as to the basis of its conclusion. The order/award is completely nonspeaking and bereft of any discussion or reasons. Any conclusion without reasons, cannot be appreciated to be worthy order in the eye of law. The first respondent Labour Court by passing such a laconic order, shirked its responsibility particularly without delving with the issue of livelihood of hundreds of workers and their families in not discharging its duties to adjudicate the claim of the petitioners on its merits.

21. For the above said reasons, this Court set aside the impugned order/award passed by first respondent Labour Court dated 16.04.2009 in I.D.Nos. 88 of 2004 to 397 of 2004 and 671 of 2004 to 694 of 2004 and also the order/award, dated 16.02.2009 passed by the same Court in I.A.Nos. 197 of 2008 to 530 of 2008 in I.D.Nos. 88 of 2004 to 397 of 2004 & 671 of 2004 to 694 of 2004. Accordingly, the Writ Petitions, viz., W.P.Nos.19670 and 19672 of 2010 are allowed.

22. In view of the orders passed in W.P.Nos. 19670 and 19672 of 2010, the Writ Petition in W.P.No.19671 of 2010 is closed since no orders are necessary.

23. The matter is remanded back to the first respondent Labour Court, which in turn, is directed to adjudicate the dispute of the petitioners on merits and in accordance with law and pass a considered award. The Labour Court may also take into consideration the passage of more than three decades since commencement of the dispute between the workmen and the management while adjudicating the dispute. Since already three decades have gone by, the Labour Court is directed to pass award as expeditiously as possible preferably within a period of nine months from the date of receipt of copy of this order. No costs."

10. Heard arguments advanced by Mr.N.Manokaran, learned counsel for the Appellant / Management and Mr.K.Srinivasa Murthy, learned counsel for the Respondents / Workmen.

11. Mr.N.Manokaran, learned counsel emphasised the fact that till date the Government order in G.O.Ms.No.1721 dated 01.08.1984 refusing to refer the dispute raised under Section 2 (k) of the Industrial Dispute Act, 1947 before the Commissioner of Labour, Chennai, has not been challenged before this Court. The learned counsel therefore stated that the order of refusal to refer the matter for adjudication by the Labour Court had become final and therefore stated that consequently, no further steps can be taken to raise an Industrial Dispute unless that order of the Government is set aside by process upheld by law.

12. The learned counsel further pointed out that on the other hand, the workmen challenged the decision of the Government refusing to reconsider G.O.Ms.No.1721 dated 01.08.1984 by filing a writ petition before this Court. He was insistent that unless the original Government order in G.O.Ms.No.1721 refusing to refer the disputes between workmen and the Management for adjudication by the Labour Court is set aside, the workmen cannot take any further steps and consequently, raising and filing Industrial Disputes before the Labour Court were prima facie not maintainable and non est in law.

13. The learned counsel also pointed out that the learned Single Judge in his order impugned before us had passed cryptic comments that a one line order had been passed by the Labour Court, Salem, while dismissing I.D.Nos.88 to 397 and 671 to 694 of 2004. It was specifically pointed out that the learned Single Judge has failed to appreciate that the said order was only a consequential order passed pursuant to rejection of the Interlocutory Applications which questioned the very maintainability of the Industrial Disputes. Once the issue of maintainability had been answered against the workmen, the

further order which automatically followed, namely dismissal of the main Industrial Dispute case had accordingly been passed.

14. The learned counsel also stated that the number of workmen who actually raised Industrial Disputes kept varying with each successive petitions filed before the Court. He pointed out that originally I.D.Nos.123 to 129, 568 to 733 and 826 to 862 of 1998 were filed by 387 workmen. Thereafter, I.D.Nos.88 to 397 and 671 to 694 of 2004 were filed by 334 workmen. Finally, W.P.Nos.19670 to 19672 of 2010 were filed by 360 workmen. It was therefore stated that even the identity and bonafide of the workmen are suspect and therefore he claimed that the workmen should not be granted any opportunity and urged this Court to set aside the order of the learned Single Judge in the writ petitions impugned before us.

15. The learned counsel also relied on 2015 (15) SCC 1, Prabhar Vs. Joint Director, Sericulture Department and Anr, for the aspect that when the workmen raised disputes after a number of years of the cause of action, discretion cannot be exercised to refer such stale disputes for adjudication inspite of the absence of any statutory limitation period.

16. The learned counsel also relied on 2007 (9) SCC 109, Dharappa Vs. Bijapur Co-operative Milk Producers Societies Union Ltd., again on the issue of delay wherein, the Honourable Supreme Court had reiterated that though the Act does not provide for a period of limitation for raising a dispute which had become stale or has become ceased to exist, still reference can be rejected on those grounds.

17. The learned counsel finally stated that the learned Single Judge had wrongly allowed the writ petitions relegating the workmen back to the Labour Court. He stated that the order in the writ petitions should be set aside and the Writ Appeals should be allowed.

18. Per contra, Mr.K.Srinivasa Murthy, learned counsel for the Respondents / Workmen supported the order of the learned Single Judge. The learned counsel relied on (1979) 1 SCC 1, M/s.Avon Services Production Agencies (P) Ltd. Vs. Industrial Tribunal, Haryana and Ors. In the said case, while examining Section 10(1) of the Industrial Dispute Act, 1947, the Honourable Supreme Court had held that the Government can refer the same dispute again for adjudication. However, it was also held that in the absence of fresh or additional material, reference was also not absolutely necessary. It was stated that the expression "at any time" indicated the possibility to refer the dispute for adjudication at any time.

19. The learned counsel also pointed out that an amendment had been effected in the year 2010 where from a petition can be straight away presented before the Labour Court under Section 2A (2) of the Industrial Dispute Act, 1947 irrespective of the fact that, the Industrial Dispute had been rejected by the Labour Court and also when affirming orders have been passed by the High Court exercising writ jurisdiction. The learned counsel therefore stated that the order under challenge requires no interference and the workman may be permitted to raise an Industrial Dispute as directed by the learned Single Judge.

20. We have carefully considered the arguments advanced.

21. The facts referred supra in paragraphs 3, 4 and 5 would show that the Workmen and Management have been in conflict continuously from the year 1981 onwards. Strike notices were issued. Strikes were undertaken. Group clashes ensued. Criminal cases were registered for the offences of the murder of a fellow workman. Initial order of conviction was passed by the Sessions Court. Subsequent order of acquittal was also passed by the High Court. That order was on 15.12.1988. It was only then that the cloud which had been caused over the conduct of the workmen had been finally removed, giving rise to an opportunity to raise an Industrial Dispute seeking employment and protesting unemployment.

22. The reliance placed by Mr.N.Manokaran on 2015 (15) SCC 1, Prabakar Vs. Joint Director, Sericulture Department and Anr., though deeply appreciated, has to be held as misplaced, since the facts in that case were entirely different. In that case, the Honourable Supreme Court was dealing with a situation wherein, the appellant, Prabakar who had been appointed as a Clerk in the Sericulture Department, Government of Karnataka on 01.04.1984 was terminated from service on 01.04.1985. During the period 01.04.1985 till 1999, he had not approached any judicial / quasi-judicial Authority challenging his termination. He did not even issue a notice to the management questioning termination. However, in the year 1999, he approached the appropriate Government claiming illegal termination in violation of Section 25-F of the Industrial Dispute Act, 1947. The only explanation he had given for the delay was that he had approached the Management on several occasions seeking reinstatement, backwages and other benefits, and though they were assured, the Management dragged the matter on one pretext or the other and only when they finally told him that it would not be possible to reinstate him, did he had raise the Industrial Dispute. However, this explanation had not been accepted by the Courts including the Honourable Supreme Court. The delay between 01.04.1985 till 1999 was held to be fatal to the interest of the appellant. In the instant case, however, the

conflicts between the Workmen and Management arose continuously on a very regular basis and the successive dates mentioned supra would indicate that the disputes were always kept pending in one forum or another including the criminal Courts.

23. Mr.N.Manokaran, learned Counsel had relied on 2007 (9) SCC 109, Dharappa Vs. Bijapour Co-operative Milk Producers Societies Union Ltd. Even in that case, it was held that though the Industrial Dispute Act, 1947 does not provide for a period of limitation, if on account of delay a dispute had become stale or had ceased to exist the reference should be rejected. In that case the appellant, Dharappa, claimed that his termination was with effect from 1.3.1980. The Labour Court however found as a fact that he had been terminated on 19.2.1978. He had then made an application under Section 10(4-A) (as inserted by Karnataka Act 5 of 1988) of the Industrial Dispute Act on 04.10.1988. In that case situation, the Honourable Supreme Court held that the legislative intent was not to revive stale or non-existing claims. In the present case, the claims had never become stale and had never ceased to exist. They continued and continued and are still being persisted with. Consequently, the said judgment would be of no avail to the appellant herein.

24. The second contention of Mr.N.Manokaran, learned counsel that the workmen had not challenged G.O.Ms.No.1721 dated 01.08.1984, cannot also be countenanced in view of the amendment made in Tamil Nadu Act 5 of 1988. The workmen can directly, approach the Labour Court either without raising a dispute or even on a failure report, without a reference being made by the Government. It is also seen that the dispute had not become stale or non-existent and consequently, the stand that said Government order should have been challenged is not accepted by us.

25. The learned counsel had also pointed out that the reasonings of the learned Single Judge in relation to the principle of resjudicata were not in consonance with the stated principles. We however hold that said reasonings were not the sole basis for the final conclusion arrived at by the learned Single Judge and consequently, the said contention is rejected by us.

26. The contention of the learned counsel that varied numbers of workmen had approached the Labour Court on successive occasions and also before the High Court also cannot be countenanced by us. This Court while dealing with the Writ Appeals against the order of the learned Single Judge can never undertake the exercise of determining facts or determining whether the workmen are still available are not.

27. Mr.K.Srinivasa Murthy learned counsel had placed reliance on (1979) 1 SCC 1, M/s.Avon Services Production Agencies (P) Ltd. Vs. Industrial Tribunal, Haryana and Ors, for the proposition that the Government can always make a reference with respect to the same dispute even after it had earlier declined to so refer the dispute.

28. In the instant case, even though the Government had refused to refer the dispute for adjudication, in view of the amendment made to the Industrial Dispute Act, 1947 by inserting Section 2A(2), the workmen can always approach the Labour Court and as rightly pointed out of the learned Single Judge, the said Industrial Dispute cannot be nipped in the bud as not maintainable.

29. Section 2A of the Industrial Disputes Act, 1947, reads as follows:

"Section 2A Dismissal, etc., of an individual workman to be deemed to be an industrial dispute:- (1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3).”

30. It is thus seen that a workmen may make an application direct to the Labour Court for adjudication of the dispute.

31. In view of the above reasons, we uphold the directions given by the learned Single Judge in entirety. We only add that the Labour Court, while adjudicating the dispute, may bestow deeper attention, in view of the long period which had lapsed. We are consciously not fixing an outer time limit for disposal, since we are aware of the intricate paths through which every Industrial Dispute will have to travel before the Labour Court. But we once again reiterate that the Labour Court Salem, must put in all efforts to adjudicate the disputes raised without granting any unnecessary adjournments. The matter, if possible can be taken up on a day to day basis after completion of pleadings. The trial should be undertaken on a day to day basis and if any adjournments are sought, not more than three working days can be granted in between any two adjournment dates, and not more than three successive adjournments can be granted for the very same reason.

32. With the above observations, the Writ Appeals are dismissed maintaining the directions given by the learned Single Judge. No order as to costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

smv

To

The Presiding Officer,
Labour Court,
Hasthampatti, Salem.

+1 CC to Mr.N.Manokaran, Advocate sr 71684.

+1 CC to M/s. Row and Reddy, Advocate sr 74456.

+2 CC to Mr.N.Manokaran, Advocate sr 71685, 71686(13/09/2019)

W.A.Nos.2634 to 2636 of 2018

CP(CO)

SP(13/09/2019)