

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.02.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.27507 of 2018
and
W.M.P.No.32018 of 2018

The Management of Aruna Theatres
and Enterprises Pvt.Ltd.,
No.3, Pillar Road,
Ashok Nagar,
Chennai ... Petitioner

Vs

1.K.Paulraj
2.The Receiver,
Aruna Theatres and Enterprises Pvt.Ltd.,
No.3, Pillar Road,
Ashok Nagar,
Chennai-600 078 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the entire records pertaining to the passing of impugned order dated 01.10.2018 passed in I.A.No.69 of 2017 in I.D.No.193 of 2008, on the file of II Additional Labour Court, Chennai and quash the same.

For Petitioner .. Mr.C.Umashankar

For Respondents ... Mr.S.Kasikumar for R2

ORDER

The writ petition has been filed against the order passed by the II Additional Labour Court, Chennai, in I.A.No.69 of 2017 in I.D.No.193 of 2008, allowing the petition to set aside the ex-parte order dated 21.03.2017, with cost of Rs.5000/- imposed on the Management, who is the petitioner before this Court in this writ petition.

2.The learned counsel for the petitioner submitted that originally a date was given and by manipulating the notings of the Court advanced the same and an ex-parte order was passed

setting the Management ex-parte and therefore, the Management did not have an opportunity to represent the Court at that time. Thereafter, an I.A. was filed by the Management to set aside the ex-parte order and the same was allowed by imposing cost of Rs.5000/- for no fault of the Management.

3.The learned counsel for the petitioner/Management would further submit that certain documents were sought by the Management and the same was rejected by the Presiding Officer concerned. According to him, the Presiding Officer is biased and therefore, the learned counsel would implore this Court to transfer the case to some other Court. He would also strongly object to the imposition of cost of Rs.5000/-, since the Management was not to be faulted for their non-appearance on the crucial date, as the date was changed unilaterally by tampering with the records.

4.This Court is unable to appreciate the arguments advanced on behalf of the petitioner/Management that the II Additional Labour Court was biased against the Management for the simple reason that the Management was set ex-parte in view of their non-appearance on the particular date. The case, which is pending before the II Additional Labour Court, cannot be transferred to any other Court at the instance of the Management, particularly on certain presumed apprehension against the Court. If such transfer is ordered it will give wrong signal and it is not in the interest of the subordinate judiciary to function independently. Even assuming that some wrong orders being passed by the Labour Court, the Presiding Officer cannot be changed. Moreover, it is seen that the same Court has allowed the application to set aside the ex-parte order and the ex-parte order was set aside. Further, the cost which was imposed also not huge or unbearable. According to the learned Counsel, the cost has also been paid. Therefore, this Court is unable to understand as to how the present writ petition can be entertained in the face of the Labour Court ordering the I.A. filed, at the instance of the Management itself.

In view of the above, this Court does not find any merit in the writ petition and accordingly, the same is dismissed. No costs. Connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msk

To

The Presiding Officer,
The II Additional Labour Court,
Chennai.

+1 cc to Thiru.V.Umashankar, Advocate, S.R.No.9532

W.P.No.27507 of 2018

MR (CO)
SSM(26/02/2019)



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