



WEB COPY

W.P.(MD)No.8326 of 2019.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

W.P. (MD)No.8326 of 2019

and

W.M.P. (MD)Nos.6514 & 6515 of 2019

and

C.R.P. (PD) (MD) No.751 of 2019

and

C.M.P. (MD)No.4528 of 2019

W.P. (MD)No.8326 of 2019

The Block Development Officer
Village Panchayat,
Block Development Officer,
Ilayankudi, Sivagangai District.

... Petitioner

Vs.

1.The Deputy Commissioner Of Labour,
Authorized Officer Under Payment of Wages Act,
Madurai.

2.The President /special Officer,
Salaigramam Panchayat Union,
Ilayankudi Taluk, Sivagangai District

3.The Assistant Director Of Panchayat,
Collector Office,
Sivagangai - 650 561.

4.The Executive Engineer,
TWAD Board, Indian Bank Upstairs,
Sivagangai.

5. Marimuthu, ... Respondents

Prayer : The Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records impugned Order in P.W.No.3 of 2015 dated 11.05.2016 on the file of the first Respondent and quash the same.

For Petitioner : Mr.J.Gunaseelan Muthiah

For R4 : Mr.M.Porkodi Karnan

For R5 : Mr.S.M.Mohan Gandhi



C.R.P. (PD) (MD) No.751 of 2019

The Block Development Officer
Village Panchayat,
Block Development Officer,
Ilaiyankudi,
Sivagangai District.

... Petitioner

Vs.

Marimuthu,

... Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order in E.P.No.6 of 2018 in C.P.No.13 of 2017, dated 15.02.2019 on the file of Labour Court, Madurai.

For Petitioner	: Mr.J.Gunaseelan Muthiah
For Respondent	: Mr.S.M.Mohan Gandhi

COMMON ORDER

The Writ Petition has been filed challenging the order passed in P.W.No.3 of 2015, dated 11.05.2016. The Civil Revision Petition has been filed challenging the order passed in E.P.No.6 of 2018 in C.P.No.13 of 2017, dated 15.02.2019 on the file of the Labour Court, Madurai.

2. P.W.No.3 of 2015 has been filed by the revision petitioner herein before the Authority of Payment of Wages Act/ the Deputy Commissioner of Labour, Madurai, for a dispersal of the arrear of salary. After hearing the parties, the Court below passed an order in favour of one Marimuthu, who is the fifth respondent in the writ petition. Challenging the said order, the writ petitioner filed the present writ petition stating that the said order was passed in ex-parte and consequently P.W.No.3 of 2015 was allowed without hearing the writ petitioner herein. Further, he submits that he is disputed the employer and employee relationship between the writ petitioner and the fifth respondent/Marimuthu.

3. On the other hand with regard to Execution Petition, since P.W.No.3 of 2015 was ordered in favour of Marimuthu, he preferred the application before the Labour Court and the Labour Court has also passed an award for a sum of Rs.1,71,000/- (Rupees One Lakh and Seventy One Thousand only) on 31.10.2017 in favour of Marimuthu. Against the said award, the said Marimuthu filed an Execution Petition before the Principal Officer, Labour Court, Madurai, in E.P.No.6 of 2018. Since the said Execution Petition, no one was



appeared on behalf of the respondent therein, the Block Development Officer, Ilayangudi/ petitioner in the Civil Revision Petition, was set *exparte* and attachment and sale of the properties were ordered. Against the said order, the Civil Revision Petition has been filed by the Block Development Officer/ revision petitioner herein.

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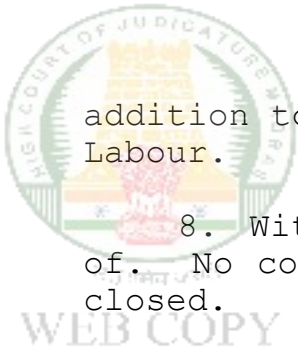
4. The main contention raised by the revision petitioner as well as the writ petitioner, who is none other than the Block Development Officer, Ilayangudi, is that both the orders have been passed in his absence. Therefore, the learned counsel prays for remand back the matter for fresh adjudication after providing opportunities to the both the parties.

5. On the other hand, the learned counsel for the respondent in Civil Revision Petition and the fifth respondent in the Writ Petition submitted that he has no objection for providing one more opportunity to the revision petitioner as well as the writ petitioner by setting aside the order passed by Execution Petition as well as in the P.W.No.3 of 2015, but the same may be ordered subject to the directions.

6. Considering the submission made by the learned counsel for the revision petitioner / writ petitioner and the respondent / fifth respondent, this Court is of the view that upon a perusal of the records, it shows that both the orders have been passed without hearing the revision petitioner/Writ petitioner.

6. On the other hand, the respondent / fifth respondent contended that as on today he is working as Pump Operator. When that being the case, it is necessary to provide opportunities to the revision petitioner / writ petitioner as well as the respondent / fifth respondent, since previous orders have been passed in the absence of the revision petitioner / writ petitioner, the Court cannot come to the conclusion with regard to exact relationship between the employer and employee. Therefore, this Court is of the view that it is necessary to set aside the *exparte* order passed by the Court below in E.P. No.6 of 2018 and P.W.No.3 of 2015. Accordingly, this Court is inclined to set aside the impugned orders only on payment of cost to the respondent/ Marimuthu for a sum of Rs.10,000/- (Rupees Ten Thousand only) within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, the order passed by the Lower Court in E.P.No.6 of 2018 and P.W.No.3 of 2015 are set aside and the matter is remanded back to the Deputy Commissioner of Labour, Madurai/ first respondent. The Deputy Commissioner of Labour, Madurai/ first respondent is directed to dispose of P.W.No.3 of 2015 within a period of three months from the date of receipt of a copy of this order. At this stage, the learned counsel submits that some cross-examination also completed, if anything is required to be examined



addition to the evidence already taken by the Deputy Commissioner of Labour.

8. With the above observations, these Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

Is

To

1.The Deputy Commissioner Of Labour,
Authorized Officer Under Payment of Wages Act,
Madurai.

2.The Assistant Director Of Panchayat,
Collector Office,
Sivagangai - 650 561.

W.P. (MD)No.8326 of 2019

and

C.R.P. (PD) (MD) No.751 of 2019

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