

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION NO.853 OF 2019

ORDER:

This Revision is filed challenging the order, dt. 28.01.2019 in I.A.No.11 of 2018 in E.C.No.13 of 2018 on the file of the Commissioner for Employees Compensation and Deputy Commissioner of Labour, Warangal.

2. The petitioner was running an industry, called Bhadrakali Fire Works in Warangal Rural District. There was an accident in the premises of the said industry on 04.07.2018, resulting in spontaneous death of 10 employees and injury to some others.

3. The police of Geesukonda registered a case in F.I.R.No.107 of 2018 on 04.07.2018 and investigated the cause of death of one V.Mallikarjuna.

4. After the said accident, a notice was given by the Commissioner for Employees Compensation and Deputy Commissioner of Labour, under Section 10-A of the Employees Compensation Act, 1923 (for brevity 'the Act').

5. The petitioner received the notice while he was in judicial custody. He was later released from judicial custody on 10.09.2018 on bail.

6. However, the petitioner did not participate in the enquiry before the Commissioner and so, the Commissioner recorded the statement of the dependents of the deceased and others and passed order on 29.10.2018 directing the petitioner to deposit an amount of Rs.6,73,157/- within 30 days from the date of the receipt of the order, failing which, interest at 9% was to be allowed.

7. In November, 2018, the petitioner filed I.A.No.11 of 2018 in E.C.No.13 of 2018 under Order IX Rule 13 r/w Section 151 CPC to set aside the award contending that he was in Central Prison, Warangal, till 11.09.2018 and so, he could not contact his Advocate to give reply to the notice, which was served on him on 14.07.2018 when he was in Central Prison, Warangal; that he is not admitting the relationship between himself and the deceased and so, an opportunity be given to him to contest the matter on merits.

8. By order, dated 28.01.2019, the Court below dismissed the application stating that the petitioner having received the notice under Section 10-A of the Act, did not produce the statutory register of wages and attendance with regard to workers engaged by him for the previous 5 years though he was directed to produce the same in the notice served on him on 14.07.2018. It held that public documents of Geesukonda Police Station, such as F.I.R., Inquest report and Post-mortem report etc., establish that the husband of the respondent was one of the workmen, who died during and in the course of employment on 04.07.2018 in the fire accident that occurred. It also observed that the petitioner has signed in Form 'U' with regard to all the deceased employees listed in the notice under Section 10-A of the Act and so, the application does not deserve any consideration.

9. Aggrieved by the same, the present Revision is filed.

10. Learned counsel for the petitioner reiterated that the petitioner did not have proper opportunity to contest the proceedings before the Commissioner and so, another opportunity be given to him to contest the case by setting aside the ex parte order of the Commissioner, dt. 29.10.2018.

11. Admittedly, the petitioner was in jail from 05.07.2018 to 10.09.2018. He was released on bail in connection with F.I.R.No.107 of 2018 of Geesukonda Police Station, which was registered in relation to the fire accident, which occurred in his industrial unit, where 10 persons died.

12. Though the matter was pending before the Commissioner till 29.10.2018 and though the petitioner was at liberty from 10.09.2018 itself after his release from the jail and though the petitioner was aware of the notice issued under Section 10-A of the Act, which was served on him while he was in jail through the jail Superintendent on 14.07.2018 itself, the petitioner took no steps to produce the material before the Commissioner between 10.09.2018 to 29.10.2018.

13. No explanation is forthcoming from the petitioner as to why he could not do so.

14. In this view of the matter, I do not see any infirmity in the order passed by the Commissioner, warranting interference of this Court under Section 115 of C.P.C. Therefore, the Revision fails and is liable to be dismissed.

15. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending in this revision shall stand closed.

M.S.RAMACHANDRA RAO, J

DATED:05-08-2019
Hsd

