

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

CIVIL MISCELLANEOUS APPEAL NO.1568 OF 2015

AND

M.P.NO.1 OF 2015

V.Chandrasekaran

... 1st Respondent/Appellant

-vs-

1.V.Parasuraman

... Petitioner/Claimant

2.M.Kaliyamoorthy

... 2nd Respondent/2nd Respondent

PRAYER:

Appeal is filed under Section 30 of Workmen Compensation Act, 1923 against the order dated 24.11.2014 in W.C.No.150 of 2005 on the file of the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai-6, received the same through post dated 26.05.2015.

For Appellant : Mr.S.Makesh

For R1 : Mr.L.S.M.Hasan Fizal

JUDGMENT

This Appeal has been filed to set aside the order of the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai-6 dated 24.11.2014 in W.C.No.150 of 2005, directing the appellant herein to pay a sum of Rs.3,58,798 within 30 days in the name of the Deputy Commissioner of Labour-II, Chennai, failing which, the amount is payable with interest @ 12% from the date of accident till the date of deposit.

2. It is the case of the claimant that while he was standing on a tree grown up in the middle of a well of the appellant on the instruction of the 2nd respondent herein for the purpose of dredging, he slipped and fell down on account of the crack on the tree, which resulted in him sustaining severe bodily injuries. It is the further case of the claimant that before the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai, the Appellant herein had not

chosen to appear to defend his case except filing a counter and therefore, the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai has passed an exparte order in favour of the claimant.

3. Learned counsel for the Appellant has submitted that the order passed by the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai is based on the surmises and conjecture, completely ignoring the fact that there was no well at all in the land of the appellant, which is evident from the report of the Tahsildar. It is further submitted that the claimant was not engaged by the 2nd respondent for any work and an affidavit had been filed by the 2nd respondent to that effect. Therefore, it is prayed that the order of the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai is arbitrary in nature and unsustainable, in view of the fact that there was no employer and employee relationship between the appellant and the 1st respondent.

4. Per contra, learned counsel for the 1st respondent has contended that location of a well on the land in question is fortified by the report of the Tahsildar, on the basis of which, the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai passed an order, granting Rs.3,57,798/- for the injuries suffered by the claimant. The said order is perfectly valid and does not warrant any interference by this Court.

5. Heard the learned counsel for the parties and perused the material documents available on record.

6. A bare reading of the report of the Tahsildar discloses the fact that there was a bore well on the land and the report no where speaks about an ordinary well and there is a vast difference between words, namely, well and bore well. When the Court was about to decide the matter on merits, learned counsel for the appellant has stated that the appellant is agreeable to pay Rs.50,000/- on humanitarian ground to the claimant so as to give quietus to the issue.

7. Learned counsel for the 1st respondent, upon sensing the mood of the Court and on instruction from the 1st respondent, has consented for receipt of Rs.50,000/-. The appellant, who is present before this Court has immediately issued two cheques of Rs.25,000/- each dated 19.02.2020 and 26.02.2020 respectively in the name of the 1st Respondent.

8. In view of the above, in the considered opinion of this Court, there is no need to pass a detailed order in this case,

touching upon the merits of the matter and the Appeal is liable to be disposed of. Accordingly, the Civil Miscellaneous Appeal is disposed of.

9. It is needless to mention that since the appellant has paid Rs.50,000/- by way of cheque to the 1st respondent in the Open Court, the entire amount lying in deposit before the Deputy Commissioner of Labour-2 (Commissioner for Workmen Compensation) Chennai shall be returned to the appellant within 15 days from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To:

The Deputy Commissioner of Labour-2,
(Commissioner for Workmen Compensation),
Chennai.

+1cc to Mr.S.Makesh, Advocate, S.R.No.14553

+1cc to Mr.K.Aruna Giri, Advocate, S.R.No.14520

Civil Miscellaneous Appeal No.1568 of 2015

AD(CO)
CS/20/07/2020

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