

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 13116 of 2019

and

W.M.P. Nos. 13260 and 30947 of 2019

SUNGWOO STAMPING PVT. LIMITED,
Rep. by its Assistant General Manager,
488/2, Mannur Village, Valarpuram Post,
Sriperumbudur Taluk - 602 105,
Kancheepuram District.

... Petitioner

-vs-

1. Government of Tamil Nadu,
Rep. by its Secretary, Labour and Management Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner of Employee's Compensation - II,
(Joint Commissioner of Labour II Chennai)
(Camp at Cuddalore)
Joint Commissioner of Labour Welfare Board Building,
DMS Compound,
Teynampet,
Chennai - 600 006.

3. B. Prabhu

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Second Respondent to decide the I.A. No. 190 of 2018 filed by the Petitioner challenging the Maintainability of the WC No. 156 of 2018 pending on the file of the Joint Commissioner of Labour II, Cuddalore Camp.

For Petitioner :Mr. M.P. Ramesh Babu

For Respondents:Mr. D. Sathyaraj,
Special Government Pleader(for R1 & R2)

Mr. R. Sreedhar (for R3)

O R D E R
(through video conference)

Heard Mr. M.P.Ramesh Babu, Learned Counsel for the Petitioner, Mr. D.Sathyaraj, Learned Special Government Pleader for the First and Second Respondents, Mr. R.Sreedhar, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent had made a claim for compensation against the Petitioner under the provisions of the Employees' Compensation Act, 1923. According to the Petitioner, prior to the filing of that claim, the Third Respondent had resigned from employment on 04.04.2018 and had issued a legal notice dated 21.06.2018 claiming compensation from the Petitioner, which was replied by the Petitioner through his advocate on 23.07.2018 denying liability, but the claim petition has been filed suppressing those material facts. After receipt of summons dated 29.08.2018 from the Second Respondent in the Claim Petition, the Petitioner had filed an application in I.A. No. 190 of 2018, stating that the aforesaid facts and has sought for dismissal of the claim petition. Apprehending that the Second Respondent would proceed to dispose the claim petition filed by the Third Respondent without considering the said contention, the Petitioner has filed this Writ Petition for direction to the Second Respondent to decide the application in I.A. No. 190 of 2018 filed by the Petitioner challenging the maintainability of the claim petition in W.C. No. 156 of 2018 on its file.

3. It is apparent that the contentions sought to be raised by the Petitioner on the maintainability of the claim petition are questions of fact, which require evidence to be adduced by the contesting parties, but it cannot be said that it relates to jurisdiction of the Second Respondent or a bar created under any law so as to be determined as a preliminary issue. As such, though there cannot be any direction to the Second Respondent to first decide I.A. No. 190 of 2018 before deciding the claim petition, it is incumbent upon the Second Respondent to duly consider the aforesaid contentions of the Petitioner on the basis of the pleadings and evidence of the parties while adjudicating the claim petition. Accordingly, the Second Respondent shall decide the claim petition in W.C. No. 150 of 2018 after affording full opportunity of hearing to the Petitioner and the Third Respondent and consider each of the contentions raised by them (including contentions raised by the Petitioner in I.A. No. 190 of 2018) and pass reasoned orders on merits and in accordance with law and communicate the decision to them under written acknowledgment. It is made clear that no view has been expressed by this Court on the correctness or otherwise on the merits of the claim made by either of the parties in this Writ Petition.

4. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vjt/Maya
To

1. The Principal Secretary to the Government of Tamil Nadu,
Labour and Management Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Commissioner of Employee's Compensation - II,
(Joint Commissioner of Labour II Chennai)
(Campt at Cuddalore)
Joint Commissioner of Labour Welfare Board Building,
DMS Compound,
Teynampet,
Chennai - 600 006.

W.P. No. 13116 of 2020

VG II (CO)
CB (27/07/2020)



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