

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD).No.3501 of 2015
and M.P.No.1 of 2015

Ayyanar

... Petitioner

Vs.

Chinnaraj

... Respondent

Prayer :- Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order dated 31.07.2015 made in File No.Aa.Thi.Mu.A2/6513 of 2015 in unnumbered I.A. in W.C.No.212 of 2011 on the file of the Deputy Commissioner for Labour cum Commissioner for Workmen Compensation, Salem.

For Petitioner : Mr.M.R.Jothimanian

For Respondent : Mr.V.R.Annagandhi

ORDER

This Civil Revision Petition is directed as against the order dated 31.07.2015 passed by the learned Deputy Commissioner for Labour cum Commissioner for Workmen Compensation, Salem, in File No.Aa.Thi.Mu.A2/6513 of 2015 in unnumbered I.A. in W.C.No.212 of

2011, thereby returning the petition to condone the delay in filing the petition to set aside the exparte order.

2. The petitioner is the fourth respondent in the claim petition filed by the respondent herein. The respondent filed claim petition in W.C.No.212 of 2011 as against the petitioner and three others claiming compensation for the injury sustained by him during digging the well belongs to the petitioner herein. After receipt of the notice in the claim petition, the petitioner engaged counsel and thereafter failed to instruct him to proceed with the claim petition, since he also sustained injury at the time of accident in which the respondent sustained grievous injury. The petitioner was admitted in the hospital and he had taken treatment and as such he could not be able to contact his counsel and to defend the claim petition.

3. Therefore, The Deputy Commissioner of Labour passed an exparte order and awarded compensation of Rs.2,50,219/- payable by the petitioner to the respondent herein. Aggrieved by the said exparte order, the

petitioner filed petition to set aside the exparte decree along with the condone delay petition condoning the delay of 953 days. The Deputy Commissioner of Labour returned the above said petition, as against which the present Civil Revision Petition.

4. The learned counsel appearing for the petitioner would submit that though the petitioner is the owner of the well and he never engaged the respondent to dig the well. He entrusted the work to one Ravi and he engaged other two persons to dig up the well and as such the petitioner never engaged the respondent to dig up the well. Even then, the Deputy Commissioner of Labour awarded compensation only as against the petitioner for the reason that he is the owner of the well. Therefore, he has got valid defence in the claim petition.

5. On perusal of records it revealed that, the Deputy Commissioner of Labour returned the petition to condone the delay and also to set aside the exparte order petitions for the reason that, already they taking action under the Revenue Recovery Act in respect of the

compensation awarded as against the petitioner and as such the petition was returned. Considering the above facts and circumstances, the order passed by the Deputy Commissioner of Labour is perverse and liable to be set aside.

6. Accordingly the order dated 31.07.2015 passed by the learned Deputy Commissioner for Labour cum Commissioner for Workmen Compensation, Salem, in File No.Aa.Thi.Mu.A2/6513 of 2015 in unnumbered I.A. in W.C.No.212 of 2011 is hereby set aside. The Registry is directed to return the original petition in unnumbered IA to the petitioner herein. On receipt of the original petition, the petitioner is directed to represent the same before the learned Deputy Commissioner of Labour, Salem within a period of two weeks from the date of receipt of the order. On receipt of the same, the Deputy Commissioner of Labour cum Workmen Compensation, Salem District is directed to receive the same and pass order on merits in accordance with law.

7. With the above directions, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.02.2021

Internet : Yes

Index : Yes/No

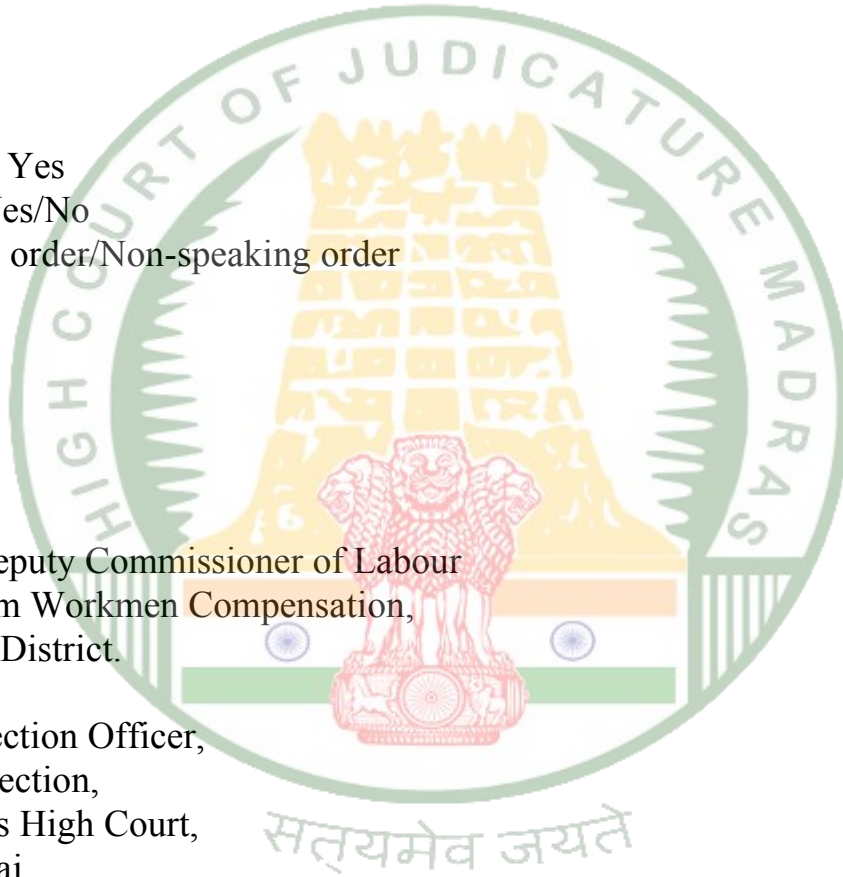
Speaking order/Non-speaking order

rts

To

1. The Deputy Commissioner of Labour
cum Workmen Compensation,
Salem District.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

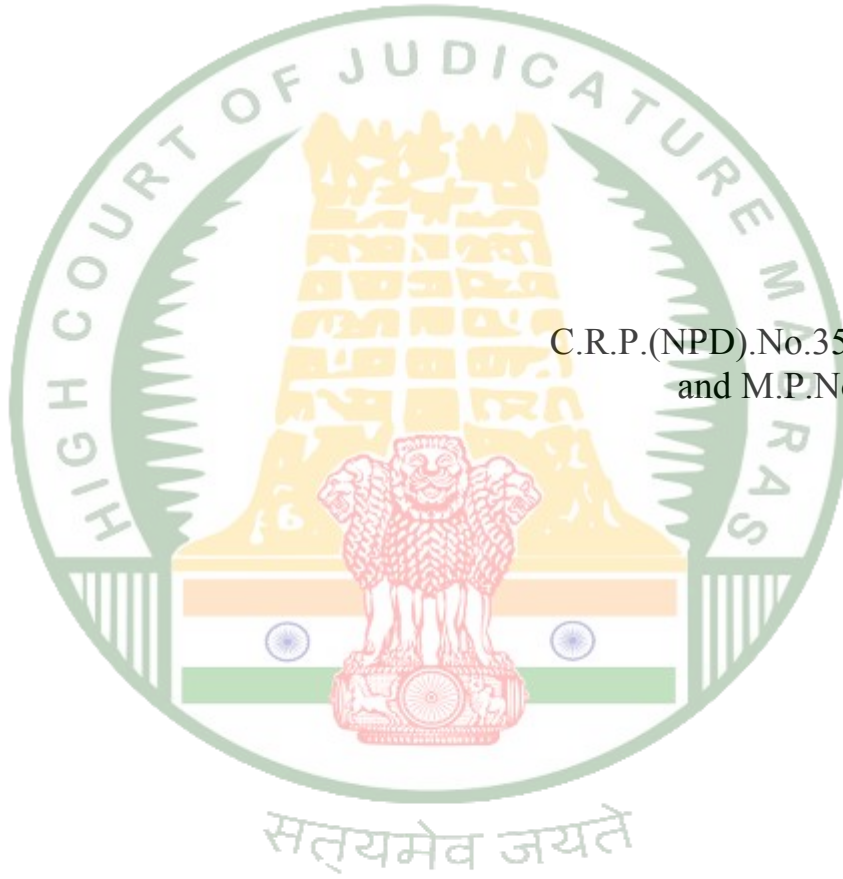


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G.K.ILANTHIRAIYAN, J.

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