

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021

CORAM

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

C.R.P.(NPD) Nos.1946 to 1949 and 3510 of 2018
and
CMP Nos.11300 to 11303 of 2018

The Management Indian Christian Mission
Centre rep by its S.Jayaraj Krishnan
No.289/55-1, Vasanthapuram,
Kanankurichi Post,
Salem – 8.

... Petitioner in all CRPs

Vs

V.Rathinam

... Respondent in all CRPs

Prayer in CRP (NPD) No.1946 of 2018 :- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, against numbered the unnumbered REA.SR.No.1656 of 2018 in REP No.22 of 2018 in C.P.No.227 of 2013 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

Prayer in CRP (NPD) No.1947 of 2018 :- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, against numbered the unnumbered REA.SR.No.1655 of 2018 in REP No.20 of 2018 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

Prayer in CRP (NPD) No.1948 of 2018 :- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, against numbered the unnumbered REA.SR.No.1657 of 2018 in REP No.23 of 2018 in C.P.No.50 of 2014 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

Prayer in CRP (NPD) No.1949 of 2018 :- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, against numbered the unnumbered REA.SR.No.1658 of 2018 in REP No.24 of 2018 in C.P.No.16 of 2016 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

Prayer in CRP (NPD) No.3510 of 2018 :- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, directing the Labour Court, Salem to accept vakalat and memo in REP No.30 of 2018 in C.P.No.57 of 2017, dated 06.09.2018 and provide all papers and heard on merits and in accordance with law.

For Petitioner in all CRPs : Mr.E.G.Ramesh
For Respondent in all CRPs : Mr.K.M.Ramesh

COMMON ORDER

The CRP (NPD) No.1946 of 2018 is filed against the order in unnumbered REA.SR.No.1656 of 2018 in REP No.22 of 2018 in C.P.No.227 of 2013 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

2. The CRP (NPD) No.1947 of 2018 is filed against the order in unnumbered REA.SR.No.1655 of 2018 in REP No.20 of 2018 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

3. The CRP (NPD) No.1948 of 2018 is filed against the order in unnumbered REA.SR.No.1657 of 2018 in REP No.23 of 2018 in C.P.No.50 of 2014 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

4. The CRP (NPD) No.1949 of 2018 is filed against the order in unnumbered REA.SR.No.1658 of 2018 in REP No.24 of 2018 in C.P.No.16 of 2016 in I.D.No.122 of 2011 return dated 07.06.2018 on the file of the Labour Court, Salem.

5. The CRP (NPD) No.3510 of 2018 is filed for a direction to the Labour Court, Salem to accept vakalat and memo in REP No.30 of 2018 in C.P.No.57 of 2017, dated 06.09.2018 and provide all papers.

6. The learned counsel for the respondent submitted that the respondent worked in the petitioner's mission centre as a permanent employee for the past 15 years continuously. His mother was also employed

in the mission and a compensation of Rs.14,000/- was paid to her on her termination. After the termination of his mother, the respondent was continuing his employment. He was asked to vacate the quarters allotted to him, on 05.03.2010. Since the respondent did not vacate the quarters and the same day, he was denied employment. Challenging the non-employment, he filed an Industrial Dispute Case in I.D.No.122 of 2011 before the Labour Court. After receipt of the notice, the petitioner did not appear before the Court below and an ex-parte award was passed on 06.12.2012. No application was filed to set aside the ex-parte award. Therefore, the respondent/workmen filed a Claim Petition in CP No.227 of 2013 claiming wages as per the award, for the period from 05.03.2010 to 31.08.2013, for a sum of Rs.1,97,652.46/-. Even in the claim petition, after the receipt of notice, the petitioner did not appear before the Court below and an ex-parte order was passed on 08.01.2014. The first claim petition is for the period from 05.03.2010 to 31.08.2013.

7. For the subsequent period, the respondent filed the second Claim Petition in C.P.No.50 of 2014 for the period from 01.09.2013 to

31.08.2014, for a sum of Rs.80,347.90/-. Again, the petitioner did not appear before the Court below and an ex-parte order was passed on 04.05.2015. Thereafter, the petitioner filed an application in I.A.No.255 of 2015 in I.D.No.122 of 2011, to condone the delay in filing the petition to set aside the ex-parte order and the same was dismissed for default on 08.12.2015. Thereafter, the respondent filed Execution Petitions in E.P.Nos.182 and 183 of 2015 on the strength of the claim petition, to realise the amounts that were computed in favour of the respondent/workmen in the claim petitions. In the said Execution Petitions, a conditional order was passed directing the petitioner to deposit Rs.50,000/- each to avoid arrest. The petitioner did not comply with the order.

8. Thereafter, the respondent filed a third Claim Petition in C.P.No.16 of 2016 for the period from 01.09.2014 to 31.12.2015 for a sum of Rs.1,13,580.26/-, claiming back wages due as per the award. After the receipt of notice in the third claim petition, the petitioner filed an application in I.A.No.322 of 2016 in I.D.No.122 of 2011 to restore I.A.No.255 of 2015 and the same was allowed and I.A.No.255 of 2015 was

restored to file. A counter was filed and the application was contested. However, the same was dismissed by order dated 07.11.2017 with costs awarded at Rs.10,000/- Aggrieved by the same, the petitioner filed a Writ Petition in W.P.No.516 of 2018 and the same was dismissed by this Court by order dated 11.01.2018.

9 . The order passed by the Labour Court in I.A.No.255 of 2015 was confirmed, against which, W.A.No.408 of 2018 was filed by the petitioner herein. The Division Bench of this Court was pleased to dismiss the Writ Appeal at the admission stage on 23.02.2018. Therefore, the award passed in I.D.No.122 of 2011 has attained finality. Even though, the order passed by the Labour Court in I.A.No.255 of 2015 is an ex-parte order, the same was confirmed by this Court in W.P.No.516 of 2018 and subsequently in W.A.No.408 of 2018.

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10. Thereafter, the respondent filed a fourth claim petition in C.P.No.57 of 2017 for the period from 01.01.2016 to 15.10.2017 for a sum

of Rs.1,66,839.54/-, the order was passed in C.P.No.57 of 2017 on 26.03.2018. One other Execution Petition in E.P.No.30 of 2018 was filed by the petitioner, to execute the order in C.P.No.57 of 2017. In the Execution Petition, the Labour Court was pleased to order arrest of the petitioner on 23.07.2018. In all the claim petitions, the total back wages amount due for the period from 05.03.2010 to 15.10.2017 is Rs.5,58,420.16/- Therefore, the Court below rightly returned the application for the reason that other side notice has to be given and arrest warrant is already pending against the petitioner and the petitioner should appear in person before the court below.

11. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Hence, the Civil Revision Petitions are dismissed. However, the petitioner is at liberty to appear before the Court below and file a petition to re-call the warrant of arrest in the manner known to law. It is made clear that while admitting these Civil Revision Petitions, stay was granted on condition that the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) each in the account of the

Execution Petitions. The respondent is at liberty to file necessary application before the Execution Court to withdraw the said amount. On receipt of the said application, the Execution Court is directed to give an opportunity to the petitioner and pass orders on merits and in accordance with law.

14.07.2021

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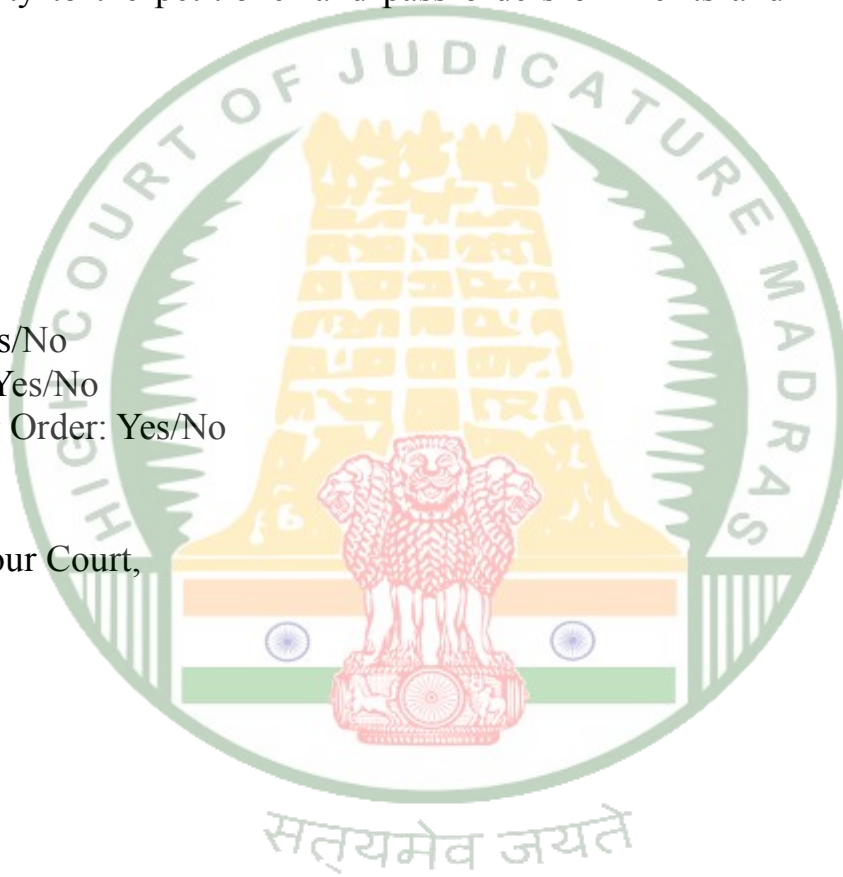
Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

The Labour Court,
Salem.

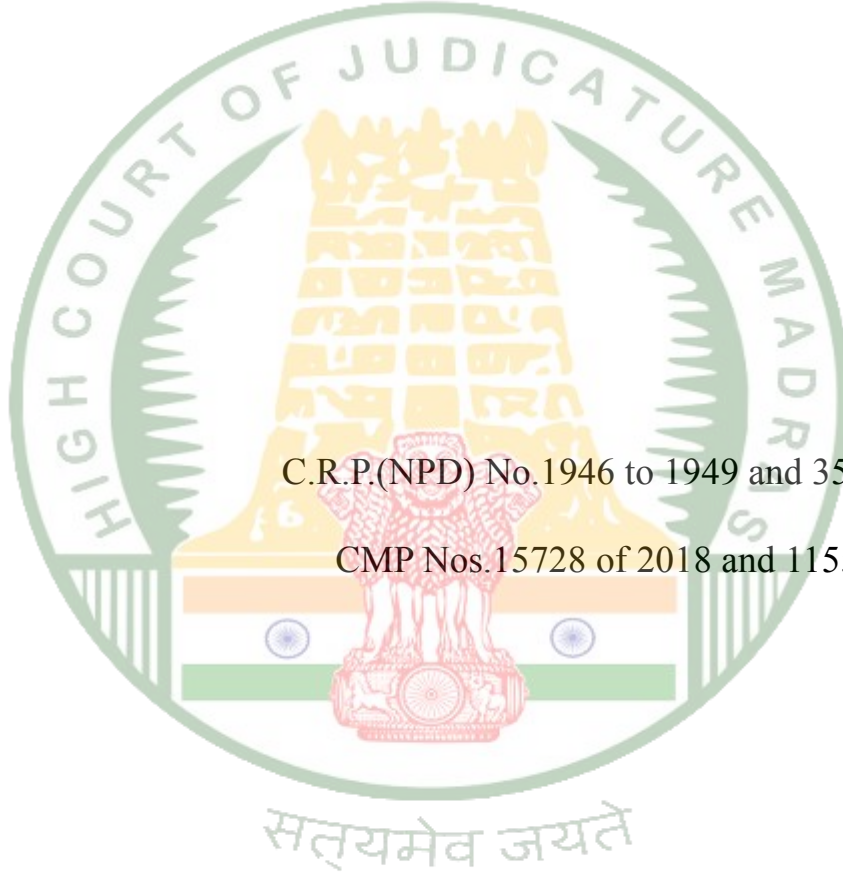


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C.R.P.(N.P.D).Nos.1946 to 1949 and 3510 of 2018

G.K.ILANTHIRAIYAN,J.

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C.R.P.(NPD) No.1946 to 1949 and 3510 of 2018
and
CMP Nos.15728 of 2018 and 11554 of 2019

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14.07.2021