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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

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THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.NO. 15851 OF 2021
AND WMP.NO.16734 OF 2021

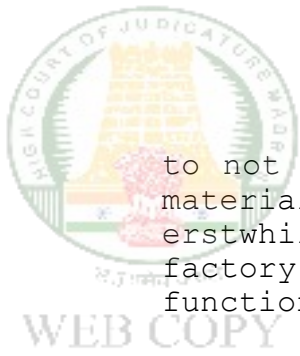
1. Malco Workers Union (LPF)
Rep. By its Secretary,
MALCO, Mettur Dam - 636402
Salem District.
2. Aluminium Thozilalar Sangam (INTUC)
Rep by its President,
MALCO, Mettur Dam - 636402
Salem District.
3. C.Pachiyappan,
4. S.Allimuthu
5. A.Kalidass
6. A.Jaganathan. ..Petitioners

Vs

1. The Madras Aluminium Company Limited (MALCO)
Mettur Dam, Salem -636 402
2. Malco Energy Limited,
Sipcot Industrial Complex,
Madurai By-pass Road, TV Puram Post,
Thoothukudi District - 628002.
3. Vedandata Limited,
(formerly MALCO & Sesa Sterlite Ltd.)
Mettur Dam, Salem-636402
4. The Presiding Officer,
Labour Court, Salem.
5. The Joint Director of Industrial Health and Safety,
Salem -636007. ..Respondents

Prayer:

Writ Petition is filed under Article 226 of Constitution of India for Writ of Mandamus, forbearing respondents 1 to 3 herein



to not to remove, dispose of, dispossess, sale or part with any material, machines, raw materials, etc., that are part of erstwhile MALCO (1st respondent) either lying in the defunct factory standing in the name of 3rd respondent or currently functioning factory standing in the name of 2nd respondent.

For Petitioner : Mr. K.M.Ramesh

For Respondents : No appearance - R1
Mr.Rahul Balaji - R2
M/s.Janani Shankar - R3
Mr.S.Arumugam, Govt. Counsel - R5

ORDER

The apprehension of the petitioners is that the management of the erstwhile Madras Aluminum Company Limited (MALCO) are attempting to remove the materials and machineries from the premises in order to deprive them of their rights. It is stated that the plant and machineries of MALCO were sold through auction to M/s. Chinar Steel Segment Centre Pvt Ltd., which fact is reflected in the counter affidavit filed by Malco Energy Limited/2nd respondent herein.

2. Incidentally, when the Joint Director of Industrial Safety and Health, Salem had issued an order dated 25.07.2016, directing for removal of the waste materials of Aluminium plant of MALCO, the District Collector had issued certain proceedings dated 28.12.2020 for compliance of the order of the Joint Director of Industrial Safety and Health, which was challenged by the Trade Union before this Court in W.P.No. 2333 of 2021. Recording the undertaking given by MALCO Energy Limited that their plant and machineries will not be removed from their functioning unit, an order was issued permitting dismantle and removal of the non hazardous waste, as per the order of the Joint Director. The relevant paragraphs are extracted hereunder;

"8. In such circumstances, this Court is of the considered opinion that

i) the second respondent shall dismantle and remove only the machineries and non-hazardous waste as mentioned in the order passed by the Joint Director of Industrial Health and Safety, Salem, dated 25.07.2016;

ii) as per undertaking they shall not remove any plant and machineries from the functioning unit of M/s.Malco Energy Limited;



iii) a direction is given to the Labour Court, Salem, to expedite the proceedings in I.D.No. 139 of 2012 and complete it within a period of two months the date of receipt of a copy of this order."

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3 .The aforesaid order has not been challenged by any of the parties.

4. Since the erstwhile unit of MALCO has already been sold to M/s. Chinar Steel Segment Centre Pvt Ltd., who are not parties before this Court and which sale has also not been challenged, the present prayer seeking for Mandamus against removal of the plant and machineries at MALCO cannot be sustained. If at all the petitioners have any apprehension on the removal of men and machineries, it would be appropriate for them to work out their remedies in accordance with law, subject to the earlier orders of this Court dated 26.03.2020 passed in W.P.No. 2333 of 2020.

5. With the above observations and directions, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1 The Presiding Officer,
Labour Court, Salem.

2 The Joint-Director of Industrial Health and Safety
Salem-636 007.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.54322

W.P.No.15851 of 2021
and

WMP.No. 16734 of 2021

PVS (CO)
PM/12/11/2021