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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.04.2021

PRONOUNCED ON : 12.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.No.656 of 2016
and
C.M.P.No.8450 of 2016

N.Rajendran ... Appellant/2nd Respondent
-vs-

1. The Presiding Officer,
1st Additional Labour Court,
Chennai-600 104

2.Sorrento Homes
Rep. by its Partner Y.P.Ravi,
No.43/11, 3rd floor,
3rd Main Road, Gandhi Nagar,
Adyar, Chennai-20

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.01.2016 passed in W.P.No.10168 of 2011 by a learned Single Judge of this Court insofar as rejecting the claim of Rs.16,02,000/- granted by the learned Labour Court, Chennai in C.P.No.337 of 2007 to the appellant.

Prayer in W.P.No.10168 of 2011:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Certiorari Mandamus to call for the records in CP No. 337/2007 on the file of the 1st respondent and quash the award dt 25.2.2011.

For Appellant : Mr.N.G.R.Prasad
For R1 : Labour Court

For R2 :Mr.J.R.Jayant for S.J.Jagadev



JUDGMENT

V.SIVAGNANAM, J.

This Writ Appeal has been preferred against the order dated 28.01.2016 passed in W.P.No.10168 of 2011 by a learned Single Judge of this Court, thereby rejecting the appellant's claim for Rs.16,02,000/- granted by the learned Labour Court in C.P.No.337 of 2007 on 25.02.2011.

2.The fact of the case is that the appellant Rajendiran was working under the second respondent/employer herein namely 'Sorrento Home'. He was an Account-in-charge since the year 1994; and initially, paid a monthly salary at Rs.5000/- vide salary certificate Ex.P1. From 01.01.2000, the appellant was promised a salary of Rs.12,000/- per month. But, actually, cash payment of Rs.5000/- alone was paid per month. Further, he was promised to pay the difference of Rs.7000/- per month but the same was not paid. When the appellant insisted the payment of his arrears, the 2nd respondent/employer on 21.07.2006 gave an Undertaking Letter Ex.P.3 to pay the arrears of salary Rs.7000/- and also promised to pay Rs.10,00,000/- in case the petitioner resigns his job or he was dismissed from service. In the meanwhile, due to the misunderstanding between the 2nd respondent/employer and his brother Raghu, the appellant stopped to attend the work and then filed the claim petition in C.P.No.337 of 2007 before the learned Labour Court, Chennai thereby claiming a sum of Rs.16,02,000/- towards arrears of salary and compensation. The 2nd respondent/employer filed counter and contested the claim. The learned Labour Judge after considering the oral and documentary evidence, awarded a sum of Rs.16,02,000/- to the appellant by order dated 25.02.2011. Aggrieved by this order of the learned Labour Court, the 2nd respondent/employer herein filed the Writ Petition in W.P.No.10168 of 2011. The learned Single Judge, after considering the arguments of the counsel for the parties and based on records held that the Undertaking Letter Ex.P.3 dated 21.07.2006 was not genuine and a fabricated document and allowed the Writ Petition and thereby quashed the impugned order passed in C.P.No.337 of 2007 dated 25.02.2011 by the learned Labour Court. Any how the appellant was permitted to withdraw Rs.4,00,000/- which was deposited pursuant to the interim orders granted by the learned Single Judge on 26.07.2013.

3.Now the appellant challenges the correctness of the order passed by the learned Single Judge of this Court in W.P.No.10168 of 2011 dated 28.01.2016.

4.Learned counsel appearing for the appellant submitted that the learned Single Judge erred in holding that Ex.P.3 dated 21.07.2006 was not genuine for the reason that the letter head containing telephone number has six digits whereas from the year 2006 seven digit telephone number has come into force. Further,



learned counsel contended that the 2nd respondent/employer is also partnership firm, it has many projects and ''Sorrento Guest House'' is also one among them. Therefore, it cannot be stated that the Undertaking Letter Ex.P.3 is not connected with the 2nd respondent/employer. Further, the 2nd respondent/employer did not come into witness box to disprove the disputed document Ex.P.3. Therefore, the learned Single Judge ought not to have interfered with the order of the learned Labour Court which was based on oral and documentary evidence. The appellant is entitled to receive Rs.16,02,000/- as ordered by the learned Labour Court, Chennai. Hence, prayed this Court to allow the present appeal.

5.Learned counsel appearing for the 2nd respondent/employer supporting the order of the learned Single Judge contended that the appellant is not entitled to the amount claimed in his claim petition. The claim petition was allowed based on the alleged Undertaking Letter dated 21.07.2006, Ex.P.3 which was not a genuine but a forged one fabricated for the purpose of the claim, which was not proved by acceptable evidence by the appellant before the learned Labour Court. The learned Labour Court without considering the genuineness of the Undertaking Letter Ex.P.3 allowed the claim. The learned Single Judge based on Ex.P.3 and other documents rightly held that Ex.P.3 was a fabricated document and the claim based on the said document is unsustainable. There is no reason to interfere with the order of the learned Single Judge and thus pleaded to dismiss the appeal.

6.Heard Mr.N.G.R.Prasad learned counsel appearing for the appellant and Mr.S.J.Javadev learned counsel appearing for the 2nd respondent and perused the materials available on record.

7.Admittedly, the appellant viz.,Rajendiran was working under the 2nd respondent/employer (''Sorrento Guest Home'') as Account-in-charge from the year 1994 and initially, he was paid a monthly salary of Rs.5000/-. It is also evident from Ex.P.1 Salary Certificate and this fact is not disputed. Further the appellant did not work from 01.03.2007 which is evident from the lawyer notice Ex.P.5 issued on behalf of the appellant and Reply notice Ex.P.6 issued by the 2nd respondent/employer. According to the appellant, he was abruptly stopped from attending work and dismissed from service as stated in the lawyer notice Ex.P.5 but in the claim petition para No.5 he had stated that the 2nd respondent/ employer insisted the appellant to continue his employment and do his duties as Account clerk. But, due to the misunderstanding between the 2nd respondent/employer and his brother one Raghu, the appellant was not attending work from 01.03.2007. As per the claim petition complainant impliedly admitted that he was not terminated from the service by the 2nd respondent/employer. It is observed by



error committed by the learned Labour Court in accepting the same, therefore, the learned Single Judge has rightly interfered with the findings of the labour Court, hence, we find no sufficient reason to allow the present appeal.

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In the result, this Writ Appeal Stands dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsn

To

The Presiding Officer,
1st Additional Labour Court,
Chennai-600 104

+lcc to M/s.Raw and Reddy, Advocate SR.No. 32477

+lcc to Mr.S.J.Jagadev , Advocate SR.No. 32490

W.A.No.656 of 2016
and C.M.P.No.8450 of 2016

VG II(CO)
A.SK(03.08.2021)