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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2021

Coram

The Hon'ble Mr. Justice PARESH UPADHYAY  
and  
The Hon'ble Mr. Justice SATHI KUMAR SUKUMARA KURUP

W.A.No.2702 of 2021  
and C.M.P.Nos.17516 and 17517 of 2021

Babu Ganesh ..Appellant

Vs

1.Munusamy  
2.Chengiammal

3.The District Collector,  
Chennai.

4.The Deputy Commissioner of Labour I,  
DMS Compound, Chennai - 6.

5.The Tahsildar,  
Mylapore-Triplicane Taluk,  
Greenways Road, Mylapore,  
Chennai - 4.

..Respondents

Appeal preferred under Clause XV of Letters Patent against the order dated 16.06.2021 made in W.P.No.11943 of 2021.

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to quash the Demand Notice bearing No.C2/1412/2019, dated 06.01.2021 of the 5<sup>th</sup> Respondent in W.C.No.167 of 2007 and direct them to not proceed with the revenue recovery proceedings against the Petitioner.

For Appellant .. Mr.P.Shanmugam  
for M/s.Shanmugha Associates

For Respondents.. Mr.D.Ravichander,  
Govt. Advocate for R3 to R5

JUDGMENT  
(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order passed by the learned single Judge dated 16 June 2021 in W.P.No.11943 of 2021.



2.1. Learned advocate for the appellant has vehemently submitted that the appellant/original petitioner did not have any farm not only in Tamil Nadu but also in the entire country and there was no question of the deceased to be treated as having been employed by the appellant. It is submitted that this is going to the root of the matter and it ought to have been examined by the learned single Judge.

2.2. Learned advocate for the appellant has submitted that the claimants could legally not be projected as the claimants at all and no compensation could have been asked for by them. Learned advocate for the appellant has also submitted that the advocate of the appellant who was looking after the matter had left the State of Tamil Nadu to settle in Karnataka before years and therefore, the appellant could not keep track of the matter.

2.3. Learned advocate for the appellant/original petitioner has submitted that without looking at the merits of the matter, learned single Judge dismissed the writ petition, which may be interfered with by this Court.

2.4. Learned advocate for the appellant also relied on the decision of the Hon'ble Supreme Court of India in Basawaraj and Another Vs. Spl. Land Acquisition Officer (2013 (4) SCC 81), particularly para 8 thereof.

3. Having heard the learned advocate for the appellant and considering the material on record, this Court finds as under:

3.1. The present appellant was under obligation to make payment to respondents 1 and 2 under the order passed by the competent authority as back as on 12 November 2010. He did not do anything, may be for the reason which learned advocate for the appellant has submitted as noted herein above. Since the order remained as it is, the revenue authorities initiated proceedings and issued a recovery notice on 06 January 2021. It is this notice, which is consequential in nature is only challenged before this Court in W.P.No.11943 of 2021.

3.2. Learned single Judge while dismissing the petition, has, in paragraphs 8 and 9, observed as follows:

"8. The Writ Petition is liable to be rejected mainly on the ground that, the Petitioner has not challenged the order dated 12.11.2010 passed by the Authority under the Workmen Compensation Act, 1923 and that, there is an Appeal remedy provided under the Act. The accident took place as early as on 07.04.2005 and after five years, the Authority has passed



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the order on 12.11.2010. When there is denial by the Petitioner with regard to the employment of the deceased, which has not been accepted by the Authority, that becomes final and it is a finding of fact and it can be questioned by way of an Appeal under Section 30-A of the Workmen Compensation Act, 1923. In order to wriggle out of the situation, the Petitioner has woken up from the slumber and indirectly challenged the order of the Authority in question, in this Writ Petition, after a decade.

9. As to the Petitioner's further contention that, the Authority has not followed due process of law and that, there is a defect in the territorial jurisdiction, as the death of the deceased took place at Kanchipuram, and that, there is a Labour Court in Kanchipuram and Chengalpet and the same has to be decided by the said Court. This Court is of the view that, the issue under the Workmen Compensation Act, 1923 cannot be decided by the Labour Court and it can be decided only by the Authority constituted under the Workmen Compensation Act, 1923. Even assuming for the sake of argument that, the Petitioner is entitled to raise the issue, he should have preferred an Appeal under Section 30-A of the Workmen Compensation Act, 1923 and after depositing the entire amount together with accrued interest, he should have preferred an Appeal, with a Petition seeking condonation of delay. Now, when there is no justification given by the Petitioner to condone the delay, and that, as stated supra, having not challenged the order of the Authority, and indirectly questioning the final order of the Authority by questioning the revenue recovery proceedings, which is a consequential one, this Court is not inclined to grant the relief sought by the Petitioner."

3.3. We find that, the impugned order cannot said to be erroneous in any manner, which may call for any interference by this Court in an intra-court appeal.

3.4. The appellant cannot be permitted to agitate against the order of compensation of the year 2010, by only challenging the consequential notice of the year 2021.

3.5. The relief, which is not even prayed for in this



petition, and which even otherwise could not have been granted in the petition, is rightly not granted by learned single Judge.

4.The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Mmi

To

1.The District Collector,  
Chennai.

2.The Deputy Commissioner of Labour I,  
DMS Compound, Chennai - 6.

3.The Tahsildar,  
Mylapore-Triplicane Taluk,  
Greenways Road, Mylapore, Chennai - 4.

W.A.No.2702 of 2021

NK(CO)  
GN(02/11/2021)