

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.71 of 2017
and C.M.P.No.377 of 2017

1.Jayabakkiam Printing Press
Rep. By its Proprietor,
Thanam having its office at
532/625, Keezha Eral Marriage Hall,
T.H. Road,
Tondiarpet,
Chennai 600 081.

2.J.Thangam

.. Petitioners

P.Marimuthu

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 15.02.2016 made in I.A.No.37 of 2015 in W.C.No.14 of 2016 on the file of the Commissioner for Workmen Compensation/Deputy Commissioner of Labour No.I, Chennai.

For Petitioners : Mr.Ramanan
for M/s.N.Manokaran

For Respondent : No appearance

ORDER

(The matter is heard through 'video conferencing/hybrid mode')

The petitioners are respondents in I.A.No.37 of 2015, filed by the respondent herein, for condoning the delay of 665 days in filing the claim petition. According to the respondent, he is an employee of the petitioners and on 01.06.2011, while he was working in the Printing Press belonging to the petitioners, an accident occurred and his hand got injured. He was admitted in the Stanley Medical College and Hospital and has taken treatment. According to the respondent, he approached number of Advocates to file claim petition, but nobody helped him in filing the claim petition. Finally, the present Advocate, who is his relative, agreed to file the claim petition. The petitioner did not know the limitation in filing the claim petition, i.e., the claim petition has to be filed within a period of two years from the date of accident and hence,

the delay of 665 days has occurred. The delay is neither wilful, nor wanton, but due to the reasons stated above. The petitioners filed counter affidavit and submitted that the respondent is not their employee. The respondent, voluntarily came to their Printing Press and was cleaning the shop. During that time, due to his own negligence, he invited the accident. The respondent has suppressed the criminal proceedings and acquittal of the petitioners in the criminal case. The reason given by the respondent for condoning the delay of 665 days is not valid and hence, prayed for dismissal of the application.

2.Both the petitioners and respondent made various averments on merits of the claim petition. The Deputy Commissioner of Labour-I, considering the averments in the affidavit and the counter affidavit, allowed I.A.No.37 of 2015, in order to give an opportunity to the respondent to put forth his case on merits.

3.Against the said order dated 15.02.2016 made in I.A.No.37 of 2015 in W.C.No.14 of 2016, the present Civil Revision Petition has been

filed.

4.The learned counsel appearing for the petitioners reiterated the averments in the counter affidavit on merits and submitted that accident occurred on 01.06.2011, the complaint was given on 11.06.2011 and the criminal case in S.T.C.No.2917 of 2011 ended in acquittal on 29.12.2013. The respondent has filed the said claim petition only on 27.03.2015, with the delay of 665 days. The respondent has not produced any medical records or adduced any oral evidence to prove the reasons which prevented him from filing the petition in time. The respondent has filed a cryptic affidavit, stating some unbelievable story. Having rejected the reasons given by the respondent, the Deputy Commissioner of Labour-I, erroneously allowed the petition to give one more opportunity to the respondent, in the interest of justice. When the reasons given by the respondent for the delay is not satisfactory, the learned Deputy Commissioner of Labour-I ought not to have allowed I.A.No.37 of 2015, filed to condone the delay and prayed for allowing the Civil Revision Petition.

5.Though the respondent entered appearance through counsel, on 10.08.2021, there was no representation for him. To give him one more opportunity, the matter is posted today. Today also there is no representation for the respondent.

6.Heard the learned counsel appearing for the petitioners and perused the entire materials available on record.

7.From the materials on record, it is seen that both the petitioners and respondent admit that accident occurred on 01.06.2011 in the place of the petitioners and the respondent got injured in the said accident. According to the respondent, he was an employee of the petitioners, while the case of the petitioners is that the respondent is not their employee and accident occurred only due to the negligence of the respondent. In the affidavit filed by the respondent, he has stated that he is an illiterate person and even though he approached many Advocates, they did not help him in filing the claim petition. Only the present

Advocate, who is his relative agreed to file the claim petition. According to the respondent, due to non-availability of the Advocate accepting his case, the delay in filing claim petition has occurred. Admittedly, the respondent got injured in the accident that occurred on 01.06.2011. Whether the respondent is an employee or whether the respondent is entitled to any compensation from the petitioners can be decided only by letting in oral and documentary evidence in the claim petition. It is well settled that application to condone the delay must be considered liberally and parties should not be shut out at the threshold itself. The length of delay is not a criteria, but reasons given by the parties must be bonafide and acceptable. In the present case, considering the claim of the respondent, the learned Deputy Commissioner of Labour-I, in the interest of justice and in order to give an opportunity to the respondent to prove his case, condoned the delay. For the above reason, there is no error or irregularity in the order of the learned Deputy Commissioner of Labour-I, warranting interference by this Court.

In the result, the Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

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Index :: Yes/No
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To

The Deputy Commissioner of Labour No.I,
Commissioner for Workmen Compensation Court,
Chennai.

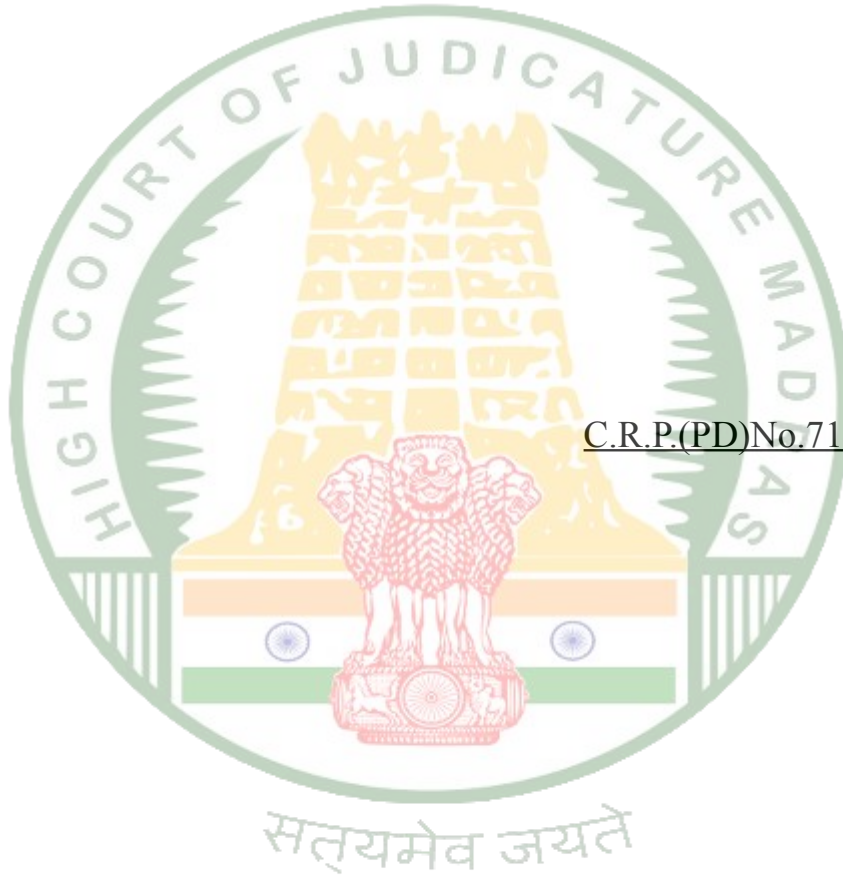


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