



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Friday, the Twenty Third day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice P.D.AUDIKESSAVALU

WMP (MD) No.18274 of 2017

IN

WP (MD) No.16181 of 2014

1 M.JOTHIMANI
2 M.DIVYA (MINOR)
3 M.DINESHKUMAR (MINOR)
4 S.MEENAKSHIAMMAL
(PETITIONERS NO.2 &3
REP.BY THEIR LEGAL GUARDIAN,
THROUGH 1st PETITIONER) ...PETITIONERS/RESPONDENTS NOS.3 TO 6

Vs

1 M.MUTHUMANI ...RESPONDENT/PETITIONER
2 THE COMMISSIONER FOR WORKMAN
COMPENSATION/ DEPUTY COMMISSIONER OF LABOUR,
DINDIGUL, DINDIGUL DISTRICT. ...RESPONDENT/RESPONDENT NO.1
3 THE TAHSILDAR
UTHAMAPALAYAM (TALUK),
THENI DISTRICT ...RESPONDENT/RESPONDENT NO.2

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to vacate the interim order of stay granted on 25.09.2014 in WP(MD) No.16181/2014.

Prayer in WP(MD) . 16181/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue WRIT OF CERTIORARIFIED MANDAMUS to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in ஓ.மு.(ஆ.3)/1896/2014 dt: 20/6/2014 quash the same as illegal and consequently direct the 1st respondent to number the Unnumbered I.A.No. of 2014 in E.C.No.78/10 on the file of the 1st respondent and dispose the same on merit within stipulated time limit framed by this Hon'ble Court.

<https://hcservices.ecourts.gov.in/hcservices/>



ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of none appeared for the petitioners either in person or through by an Advocate and of MR.R.MURUGAN, Additional government Pleader, on behalf of the Respondents 1 and 2, the court made the following order:-

The Petitioner, who was served with a notice for the hearing on 26.08.2010 in a claim for compensation in E.C.No.78 of 2010 before the First Respondent by the legal heirs of one S.Murugan, had entered appearance through his Advocate on that date by filing vakalat, but did not thereafter file any counter. However, the reply notice sent by the Petitioner to the claim for compensation was marked as Ex.P-9 in the said proceedings and after considering the contentions raised therein, an award dated 19.03.2012 was passed for payment of compensation of Rs.3,96,620/- with interest at the rate of 12% per annum. When action was taken for recovery of the amount due, the Petitioner filed an application in the year 2014 to set aside the *ex parte* order along with an application to condone the delay in filing the same. The First Respondent refused to entertain that application which is assailed in the Writ Petition.

2. Though the provisions of Order IX of Code of Civil Procedure, 1908, have been made applicable to the proceedings before the Commissioner for Employees' Compensation in terms of Rule 41 of the Workmen's Compensation Rule, 1924, the time limit for the same and the availability of power to excuse delay in filing an application to set aside an *ex parte* order requires to be examined. Learned Counsel for the Petitioner seeks time to make submissions in that regard.

3. Learned Additional Government Pleader appearing for the First and Second Respondents states that though a sum of Rs.3,96,620/- with interest at the rate of 12% per annum from the date of accident till payment has to be recovered from the Petitioner and so far, only a sum of Rs.3,10,500/- has been paid by him. It is necessary to protect the interests of the Third to Sixth Respondents if the Petitioner does not ultimately succeed in the Writ Petition. In that view of the matter, the First Respondent shall calculate the remaining amount due from the Petitioner and furnish him with working-sheet to deposit the said amount with accrued interest by 31.05.2021.

4. If the Petitioner fails to comply with the same, the First Respondent shall inform the Second Respondent in that regard to proceed to recover the remaining amount due from the Petitioner in terms of the award dated 19.03.2012 passed by the First Respondent by following the prescribed procedure, subject to the result of the Writ Petition. The order of interim stay dated 25.09.2014 passed by this Court stands modified to that extent.



Post the Writ Petition for final hearing on 16.06.2021.

sd/-

23/04/2021

WEB COPY

/ TRUE COPY /

/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE COMMISSIONER FOR WORKMAN COMPENSATION /
DEPUTY COMMISSIONER OF LABOUR, DINDIGUL, DINDIGUL DISTRICT.
- 2 THE TAHSILDAR
UTHAMAPALAYAM (TALUK), THENI DISTRICT.

ORDER

IN

WMP(MD) No.18274 of 2017

IN

WP(MD) No.16181 of 2014

Date :23/04/2021

ta/SRM

AM/VR/SAR-4/30/04/2021/3P/3C