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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Eleventh day of May Two Thousand Twenty Two

PRESENT

THE HON`BLE MR.JUSTICE MOHAMMED SHAFFIQ

WMP.No.8507 of 2022

IN WP.No.9544 of 2013

THE IDPL EMPLOYEES UNION [PETITIONER]
REP. BY ITS GENERAL SECRETARY,
NO.5 AND 6, SHOPPING COMPLEX,
IDPL COLONY, NANDAMBAKKAM,
CHENNAI 600 089.

Vs

1 PRESIDING OFFICER [RESPONDENTS]
III ADDITIONAL LABOUR COURT,
HIGH COURT CAMPUS,
CHENNAI 600 104

2 MANAGEMENT OF IDPL (TAMIL NADU) LTD.,
NANDAMBAKKAM, CHENNAI 600 089

3 TAMILNADU INDUSTRIAL DEVELOPMENT
CORPORATION LTD (TIDCO),
REPRESENTED BY ITS CHAIRMAN AND
MANAGING DIRECTOR, NO.19A
RUKMANI LAKSHMIPATHY ROAD,
EGMORE, CHENNAI - 600 008.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to implead

"TAMIL NADU INDUSTRIAL DEVELOPMENT Corporation Ltd (TIDCO),
Represented by its Chairman and Managing Director,
No.19 A Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008"

as party Respondent No.3 in W.P.No.9544 of 2013.



Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.BALAN HARIDAS, Advocate for the Petitioner and of MR.M.VIJAYAN, Advocate for KING AND PATRIDGE, Advocate for M/S.P.ANAND KUMAR, GOVERNMENT ADVOCATE on behalf of the 3rd Respondent (TIDCO), the court made the following order:-

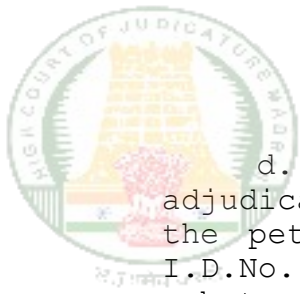
The writ petition is filed challenging the order of the Labour Court in I.D.No.68 of 2005 relating to absorption of 32 employees who are the petitioners herein. The present order is however limited as to whether the 3rd respondent should be impleaded and whether an order of injunction restraining the 2nd respondent and the proposed 3rd respondent is to be issued against vacating the petitioners viz., the 32 employees from the residential quarters allotted to them.

2. It may be relevant rather necessary to set out briefly the facts leading upto the present interim petitions.

a. M/s.Indian Drugs and Pharmaceutical Ltd., (Tamil Nadu), Nandambakkam, Chennai-600 089 (in short "IDPL") has been in existence for over 50 years and engaged in the manufacture of medical equipments, medicines etc. IDPL became sick and approached B.I.F.R. A Voluntary Retirement Scheme (VRS) was also introduced with a view to reduce the strength of permanent employees who were about 225 in the 2nd respondent Company. The scheme further provided that the employees who did not opt for VRS on or before 31.12.2004 will be retrenched, resultantly, the employees were compelled to opt for VRS. The above scheme was applicable only to permanent employees. Almost all the permanent employees had retired by May 2003 barring 33, who were left out.

b. Admittedly, the petitioners are not permanent employees though they claim to have been working continuously for a period ranging from 5 to 15 years in various departments viz., Civil, Electrical and Mechanical. The petitioners also claim to be discharging work which is perennial in nature without any break and the denial of permanency is stated to be only with the intent to deny the monetary and other benefits which they may otherwise be entitled to and that the conduct of the respondent Company would constitute unfair labour practice.

c. The petitioners raised an Industrial Dispute under Section 2 (k) of the Industrial Disputes Act for regularisation of the 32 employees who are the petitioners herein. The matters were referred to conciliation which failed. Thereafter, when the matter was pending before the Government for reference there was an attempt to disengage the service of the 32 employees/ petitioners herein which necessitated the petitioners to approach this Court by way of a writ petition in W.P.No.25631 of 2004 and this Court vide order dated 09.09.2004 had held that the service of the employees ought not to be discontinued until the issue relating to regularisation is decided.



d. Thereafter, the Government referred the dispute for adjudication before the 1st respondent/ Labour Court. The claim of the petitioners to permanency was rejected by the Labour Court in I.D.No.68 of 2005 on the premise that in the absence of any substantive vacancies as per rules, the petitioners being casual workers cannot claim permanency.

e. Aggrieved by the same, petitioners had filed the present writ petition wherein an order of status quo was granted by this Court in M.P.No.1 of 2013 in W.P.No.9544 of 2013 relevant portions of the interim order is extracted below:

"During the pendency of the industrial dispute, the services of the 32 workmen were continued as daily rated casual employees. Therefore, the same position shall not be altered until further orders. Counter to be filed within 2 weeks."

f. As a part of their employment, a quarters had been allotted to all the petitioners/ 32 employees as would be evident from the order of allotment

g. Form-A notice under Section 4(2) of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 was issued which was responded to by the petitioners by stating *inter alia* that the said Act would have no applicability and the petitioners would not come within the purview of the said Act, thereafter, no further action was taken.

3. The matter was mentioned by Mr.Haja Mohideen Gisthi, learned counsel appearing on behalf of the 2nd respondent stating that there has been payment of salary every month to the petitioners despite the fact that the Respondent-Company is defunct and therefore there is a need to decide the matter urgently. Pursuant to mentioning, the matters were listed for hearing on 25.04.2022.

4. The main writ petition was argued for a while by Mr.Balan Haridas and Mr.Haja Mohideen Gisthi, however, the hearing could not be completed as Mr.Haja Mohideen Gisthi citing personal inconvenience, requested the matter to be listed after vacation.

5. During the course of the hearing, it was submitted by the learned counsel for the petitioners that despite the orders of status quo by this Court, the petitioners are facing threat of eviction by TIDCO and thus they have filed a petition to implead M/s. TIDCO. Notice was taken by Mr.P.Anand Kumar, learned Government Advocate for TIDCO on 25.04.2022 and the matter was listed on 27.04.2022. On 27.04.2022, Mr.Vijayan, appearing for TIDCO requested for time to file a counter and to call the matter after vacation. It was informed that Mr.Anand Kumar had taken notice on 25.04.2022, it was then



submitted by Mr.Vijayan that the impleading petition is misconceived and the 3rd respondent is neither a necessary or proper party in the present writ petition, which is with reference to a challenge to the order of the Labour Court.

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6. To a pointed question from this Court to Mr.Vijayan as to whether the petitioners can continue to remain in possession of the quarters until the matters are finally heard, immediately after vacation, it was fairly submitted by Mr.Vijayan that no such undertaking could be given and that the petitioners would have to vacate and that the 3rd respondent intends to vacate the petitioners.

7. In view of the above submission of Mr.Vijayan that they intend to vacate the petitioners, this Court is of the view that the presence of TIDCO/ proposed party/ 3rd respondent is necessary for effective and complete adjudication of the questions that arise in the present writ petition inasmuch as accommodation is admittedly provided as part of employment. Therefore, though in the impleading petition a counter is sought to be filed, in view of the eminent threat to the petitioners' possession of the quarters stated to be provided as part of employment, this Court is of the view that the 3rd respondent/ TIDCO/ proposed party ought to be impleaded. In this regard, it may be relevant to note that this Court while exercising jurisdiction under Article 226 of the Constitution of India has very wide powers to implead, including the power to suo moto implead any party to effectively and completely adjudicate upon and settle all questions that arise in the petition. In view of the same, M/s.TIDCO is impleaded suo moto as the 3rd respondent.

8. Submissions of the 3rd respondent:

i) It was submitted by Mr.Vijayan that the occupation of the quarters by the petitioners is illegal and contrary to the orders of this Court in W.P.Nos. 19920, 19928, 20145, 20148, 20176 and 20179 of 2020 and W.P. No. 39270 of 2003 wherein this Court was pleased to pass a series of orders directing the employees of the 2nd respondent Company to vacate the premises.

ii) It was further submitted that the Company namely, M/s.IDPL is no longer in existence and thus the question of absorption may no longer survive.

iii) It was submitted that it was appropriate for the petitioners to get themselves impleaded in W.P. No.39270 of 2013 and W.P. Nos.19920, 19928, 20145, 20148, 20176 and 20179 of 2020, rather than impleading the 3rd respondent in this writ petition.



iv) That the 2nd respondent was allotted land by the Government through various Government Orders to the extent of 208.67 acres of patta and Poramboke land for establishing surgical instruments manufacturing factory with a condition that unutilised land would be resumed by the State Government. However, the 2nd respondent/ Company had utilised only certain pockets of the land so allotted, for construction of factory, for manufacture of surgical instruments and plant and quarters for staff/ employees in the said Company. M/s.IDPL has become defunct and that unutilised land was resumed from IDPL vide Government Orders in G.O.Ms.No.146, Industries (MIA.1) Department, dated 23.07.2012 and G.O.Ms.No.164, Industries (MIA.1) Department, dated 13.09.2012 and the said land is under the custody of the Industries Department with proper fencing and warning hoardings to prevent encroachment. The Government had also accepted the request of IDPL to take over the lands along with the assets. Thus the petitioners' continuation in possession of quarters is contrary to the above Government Order and thus illegal.

v) It was submitted that the 3rd respondent has been designated as an Nodal Authority for development of FinTech City project near Chennai, the said project is to be developed with requisite supporting infrastructure to accomodate financial institutions such as Banking, Non-banking financial service, Financial Business Process Outsourcing, Regulatory Institutions, Financial Market Operations, Training Centres, etc., and TIDCO will develop the project phase wise and it is proposed to develop a first phase of the project in 21.13 acres, a part of land resumed by Government from IDPL in the northern side of the State Highway. The Chairman of TIDCO has requested the Government to grant permission for TIDCO to enter the land resumed from IDPL for establishing Phase-I to FinTech City. The Government had also accepted the above request and the Government had granted TIDCO permission to enter upon the lands resumed by the Government from IDPL.

9. To sum up it is the submission of Mr.Vijayan that the petitioners' possession is unauthorised and illegal and therefore not entitled to any relief inasmuch as the petitioners continuation in possession of the quarters is contrary to the above Government Orders. It was further submitted that the occupation of the petitioners is illegal not only as they are contrary to the above Government Orders but also contrary to the orders of this Court in W.P.No.39270 of 2003 whereby, through a series of orders commencing with the order dated 03.09.2018 followed by order dated 26.02.2021, 02.03.2021 and 07.04.2021 had issued directions to the employees of IDPL to vacate and handover possession of the quarters. That the petitioners have no right whatsoever to continue in the quarters and any delay in vacating the petitioners from their illegal occupation of the quarters would only result in delaying the FinTech Project which has been proposed with larger public interest in mind.



It was thus submitted that the prayer for interim orders by the petitioners is liable to be rejected.

10. **Submissions of the Petitioners:**

a. The series of orders which is referred to by the 3rd respondent/ TIDCO in W.P.No.39270 of 2013 and in W.P.Nos.19920, 9928, 20145, 20148, 20176, 20179 of 2020 which related to ex-employees or retired employees and would therefore not apply to the petitioners herein.

b. Secondly, reliance was also sought to be placed on the communication of the Estate officer addressed to the Inspector of Police, Nandambakkam stating that the 32 employees / petitioners herein may have to be excluded from the current process of eviction in terms of the order of this Court dated 03.12.2020. It was thus submitted by Mr.Balan Haridas, learned counsel for the petitioners that the submission of the 3rd respondent that the petitioners are covered by W.P.No.39270 of 2013 is wholly misconceived and that the petitioners who are in possession should not be disturbed without following the due process of law which includes the procedure provided for under the Public Premises Eviction of Unauthorised Occupants Act, 1971.

11. Heard both sides and perused the material on record.

12. This Court is of the *prima facie* view that the assumption of the 3rd respondent/ TIDCO that the order in W.P.Nos, 19920 19928, 20145, 20148, 20176 and 20179 of 2020 and W.P. No. 39270 of 2003 covers the present petitioners appears *prima facie* to be misconceived inasmuch as the above writ petition was concerned with retired employees and not with the present set of petitioners who are admittedly casual labourers, who were allotted quarters for accommodation and whose right to permanency is the subject matter of the present writ petition. The following passages of the orders of this Court in W.P.No.39270 of 2003 would show that this Court was concerned with retired employees and not the present set of petitioners:

"2. This petitioner Union moved this writ petition representing or espousing the cause of erstwhile employees of the 1st respondent namely "Indian Drugs and Pharmaceutical Limited". The member employees of the petitioner Union who are the erstwhile employees of the 1st respondent, after some years of service, either superannuated or retired voluntarily. Subsequently, the 1st respondent become sick and though it was referred to Board for Industrial and Financial Reconstruction (BIFR), under the SICA Act, 1985, there was no scope for any revival of the company.



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3. These employees had been in occupation of the quarters allotted to them, which was constructed by the 2nd respondent company for the benefit of its employees. Since, the 2nd respondent Company itself became sick, all these employees had either retired on superannuation or voluntarily left the company, however, they continue to occupying the quarters allotted to them.

4. However, when they were occupying the quarters, even in pursuant to the voluntary retirement, as per the terms of the Voluntary Retirement Scheme dated 06.03.2003, the rent payable by them for the occupation of the quarters for six months as normal rent and after six months, the rates will be as stipulated by the 1st respondent in its letter dated 20.01.2003.

.....

7.even though the company itself was closed and the employees are no more employees of the 1st respondent company, as they have already retired from service, they were not ready to vacate the quarters. He would further submit that, most of the employees have not paid the rent for several years. He also submitted that, large number of employees, in fact, are not staying in the quarters but they have sublet it for third parties....

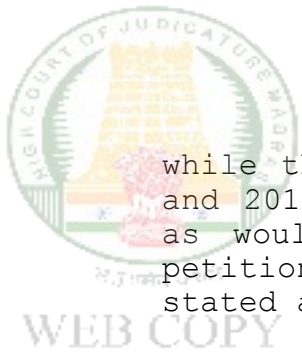
.....

10. In that context, this Court by order dated 16.08.2018 passed the following order:-

"The learned counsel appearing for the respondent company has filed an affidavit about the present status of the issue along with an annexure consisting of a list of erstwhile employees, who have gone for voluntary retirement, who have, been occupying the quarters without paying rent for some time."

(emphasis supplied)

However, W.P. Nos.19920, 19928, 20145, 20148, 20176 and 20179 of 2020 and W.P. No. 39270 of 2003 are again cases where the names of 144 employees were specifically set out and none of the present 32 petitioners are a party to the proceedings in W.P. Nos.19920, 19928, 20145, 20148, 20176 and 20179 of 2020 and W.P. No. 39270 of 2003. In other words, the present set of petitioners are different from the 144 employees who are party to the proceedings in W.P.Nos. 19920, 19928, 20145, 20148, 20176 and 20179 of 2020 and W.P. No. 39270 of 2003, who were all retired employees unlike the petitioners whose claim to permanency is the subject matter in this writ petition,



while the petitioners in W.P.Nos. 19920, 19928, 20145, 20148, 20176 and 20179 of 2020 and W.P. No. 39270 of 2003 were retired employees as would be evident from the undertaking affidavit filed by the petitioners/ employees in those writ petitions, wherein it has been stated as under:

"3.Affidavit of the petitioner

"2. I submit that I have been living in the 1st respondent's Staff Quarters for over twenty years now. I was an employee of the 1st respondent Company and have been occupying the 1st respondent's premises as a lessee. I submit that for the purpose of this lease, the 1st respondent herein has withheld a portion of my terminal benefits as a Security Deposit.

3.

4. As stated above, the petitioners in the present Writ Petition are all retired employees of IDPL....."

Importantly, even in the order relied upon by the 3rd respondent in the above writ petitions, with reference to ex-employees who are not a party to the proceedings, the interim order makes it clear that such employees shall be evicted in the "manner known to law".

The relevant extracts would make the above position clear:

"7. If any of the ex-employees who are the occupants out of the total 128 but are not covered in these batch of Writ Petitions and if they already filed any other Writ Petitions which are not tagged along with this batch, (or) not at all filed any Writ Petition, in respect of them also, necessary steps shall be taken by I.D.P.L. to evict those ex-employees in the manner known to law. In the context, since it is submitted by the learned Standing Counsel appearing for I.D.P.L., that, some of them individually filed the Writ Petitions and those Writ Petitions pending before this Court have not been tagged with these Writ Petitions, it is open to the learned Standing Counsel appearing for I.D.P.L., to pursue the matter through the Registry by making a request to the Hon'ble Chief Justice for appropriate orders regarding tagging the matter also along with these Writ Petitions."



A reading of the above extract would show that the assumption of the 3rd respondent that the petitioners are covered by the orders passed in W.P.No.39270 of 2013 and W.P. Nos.19920, 19928, 20145, 20148, 20176 and 20179 of 2020 is misconceived inasmuch as it was concerned with retired employees and this Court also finds that the 144 employees who are the petitioners in the above writ petitions do not include the 32 employees who are the petitioners before this Court in W.P.No.9544 of 2013 and thus, the reliance on the order in W.P.Nos, 19920, 19928, 20145, 20148, 20176 and 20179 of 2020. and W.P.No.39270 of 2003 petitions is misplaced. In any view, the petitioners not being a party, eviction ought to be carried out in the manner known to law even in terms of the said order.

13. Secondly, the submission by the counsel for the TIDCO/ 3rd respondent that the petitioners ought to have impleaded themselves in W.P.No.39270 of 2003 rather than impleading the 3rd respondent in the present writ petition also *prima facie* appears to be unsustainable inasmuch there is a direction to list W.P.Nos, 19920, 19928, 20145, 20148, 20176 and 20179 of 2020 and W.P. No. 39270 of 2003 for being heard by a Bench which is assigned the service portfolio.

14. Thirdly, though there can be no doubt that public interest would prevail over private interest, however, eviction of the petitioners who are admittedly in possession may have to be carried out upon following due process of law.

15. Taking into account all the relevant aspects, the following clarifications and directions are issued:

a. This Court is of the *prima facie* view that the petitioners are not covered by the orders passed by this Court in W.P.No.39270 of 2013 and W.P. Nos.19920 19928, 20145, 20148, 20176 and 20179 of 2020, thus, it may not be permissible for the 3rd respondent to evict the petitioners on the basis of orders of this Court in W.P. No.39270 of 2013 and W.P.Nos, 19920, 19928, 20145, 20148, 20176 and 20179 of 2020.

b. There will an order of status quo until **07.06.2022** and the writ petitions shall be listed for hearing on 07.06.2022.

c. The order of status quo is meant only for the limited purpose of protecting the petitioners against being evicted illegally and/or eviction on the misconception that the petitioners are covered by W.P.No.39270 of 2013 and W.P.Nos, 19920, 19928, 20145, 20148, 20176 and 20179 of 2020.

d. The above order of status quo shall not preclude the 3rd respondent from proceeding further to evict the petitioners/employees after following due process of law.



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16. Let the matters be listed on **07.06.2022.**

-sd/-
11/05/2022

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Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRESIDING OFFICER
III ADDITIONAL LABOUR COURT,
HIGH COURT CAMPUS,
CHENNAI 600 104

2 THE MANAGEMENT OF IDPL (TAMIL NADU) LTD.,
NANDAMBAKKAM, CHENNAI 600 089

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EGMORE, CHENNAI - 600 008.

C.C. to M/S.BALAN HARIDAS, Advocate SR.NO. 3895/2022.

Order
in
WMP.No.8507 of 2022

IN WP.No.9544 of 2013

Date :11/05/2022

From 26.2.2001 the Registry is issuing certified
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TP(12/05/2022)