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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. NO. 11566 OF 2018

AND

W.M.P. NO. 13529 OF 2018

St. Velankanni Arokiya Annai Church
Rep. by its Authorised person by G.Leo Thadeus
Madakoil Street, Rathinam Nagar
Cheran Ma Nagar, Coimbatore-641 035.

... Petitioner

-vs-

1. The Deputy Commissioner of Labour
Employee Compensation Commissionerate
Coimbatore-18.

2. Vanita

3. Minor Subhashini

4. Minor Dhananchezhian

(Minors Rep.by their Mother/Guardian
Mrs.Vanitha)

5. Subramani

6. Panju

7. Jacob Jayaseelan

8. Ranjith Kumar

... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent in respect of the order in I.A. No. 92 of 2016 in E.C. No. 6 of 2013 dated



07.07.2017 and quash the same and consequently direct the First Respondent to decide E.C. No. 6 of 2013 after affording opportunity to the Petitioner.

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For Petitioner : Dr. S.S.Swaminathan

For Respondents: Mrs. C.Sangamithirai
Special Government Pleader (for R1)

Mr. N.Manokaran (for R2 to R6)

Mr. P.Raja (for R7 & R8)

O R D E R

Heard Dr. S.S.Swaminathan, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the First Respondent, Mr. N.Manokaran, Learned Counsel for the Second to Sixth Respondents and Mr. P.Raja, Learned Counsel for the Seventh and Eighth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second to Sixth Respondents are the wife, children and mother of one S.Kumar who had died in an accident which had occurred on 08.05.2012 in the premises of the Petitioner and they made a claim seeking compensation in E.C. No. 6 of 2013 before the First Respondent under the Employee's Compensation Act, 1923 (hereinafter referred to as 'the EC Act' for short). According to the Petitioner, the said S.Kumar was a contract labour engaged through the Seventh and Eighth Respondents, and that the notice in E.C. No. 6 of 2013 from the First Respondent was served on its Secretary who was not competent to receive the same and he had not also brought it to the notice of the governing body of the Petitioner. It is contended that in that backdrop, the Petitioner could not appear in the proceedings in E.C. No. 6 of 2013 before the First Respondent in which an order dated 29.01.2016 ultimately came to be passed fastening liability on the Petitioner to pay a sum of Rs. 8,15,400-towards compensation to the Second to Sixth Respondents, and exonerating the Seventh and Eighth Respondents through whom the said S.Kumar had been actually employed. The application in I.A. No. 92 of 2016 filed by the Petitioner to amend its description as represented by 'Authorized Representative' instead of 'Secretary' in order to apply for setting aside the exparte order passed on 29.01.2016 in E.C. No. 6 of 2013, was dismissed by the First Respondent by order dated 07.07.2017, which is impeached in this Writ Petition.



3. It has been brought to notice that prior to the filing of this Writ Petition, the Petitioner had laid the suit in O.S. No. 1744 of 2017 before the III Additional District Munsif Court, Coimbatore (hereinafter referred to as the 'Civil Court' for short) for declaring the proceedings initiated under the Revenue Recovery Act in Reference No. 7209 of 2015 dated 13.04.2016 or any other similar proceedings on the basis of the award dated 18.12.2015 passed in E.C. No. 6 of 2013 by the First Respondent as null and void and not binding on the Petitioner and/or its property under any circumstances and to pay costs. The Second to Sixth Respondents had preferred the Civil Revision Petition in C.R.P. No. 875 of 2018 in this Court under Article 227 of the Constitution to strike off the plaint in O.S. No. 1744 of 2017 before the Civil Court, and this Court by order dated 20.06.2019 held that the said suit is a clear abuse of process of law and struck it off. It was further held that the Petitioner could not be absolved of its liability to make payment of the compensation due to the Second to Sixth Respondents. It is also stated that the entire amount with interest in terms of the order dated 29.01.2016 in E.C. No. 6 of 2013 has been remitted by the Petitioner with the First Respondent as directed by this Court in the said order.

4. In view of the aforesaid subsequent events after the filing of the Writ Petition, the relief sought by the Petitioner does not remain for consideration. The Second to Sixth Respondents may make necessary application before the First Respondent for withdrawal of the amount payable to them. However, the Petitioner is not precluded from working out its rights to claim reimbursement of the amount deposited from the Seventh and Eighth Respondents invoking Section 12 of the EC Act and no view has been expressed by this Court on the merits of the contentions of the respective parties in that regard.

In fine, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Maya



To
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The Deputy Commissioner of Labour
Employee Compensation Commissionerate
Coimbatore-18.

+1cc to N.Manokaran, Advocate, S.R.No.26257
+1cc to S.S.Swaminathan, Advocate, S.R.No.26115
+1cc to the Government Pleader, S.R.No.26326

W.P. No. 11566 of 2018

SR(CO)
PM/25/05/2022