



W.P.No.15066 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15066 of 2019
and W.M.P.Nos.15044 & 15047 of 2019

Digital Data Forms Pvt. Ltd.,
No.12, Ethiraj Salai,
Egmore, Chennai – 600 008
Rep. by its Director, Mr.S.B.P.S. Krishna Mohan

...Petitioner

Vs.

- 1.The Deputy Commissioner of Labour-1
O/o. Deputy Commissioner of Labour – 1,
DMS Complex, 2nd Floor, Teynampet,
Chennai – 600 006.
- 2.The District Collector,
Office of the District Collector,
Chennai – 600 001.
- 3.Mr.Pachaiyappan
- 4.Mrs.Malliga
- 5.Mr.Sundaram



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6.Chennai Auto Forgings Pvt. Ltd

Having its registered Office at #4 (Old No.9)

Angadi Street, V.P. Colony,

Ayanavaram, Chennai 600 023.

Respondents

[R6 impleaded vide Order dated 01.11.2022 made in WMP.No.288 of 2021 in W.P.No.15066 of 2019]

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling the records and quash the final order / Award dated 03/04/2013 made under WCC No.175 of 2009 on the file of the Deputy Commissioner of Labour -1, Tribunal, Chennai.

For Petitioner : Mr.Umesh Rao

For Respondents : Mr.S.Rajesh
Government Advocate
for R1 and R2

Mr.B.Srinivasan for R3 & R4

Mr.C.Mahendran for R5

ORDER

The Award dated 03.04.2013 passed in W.C.C. No.175 of 2009 is under challenge in the present writ petition.



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2.The petitioner is Digital Data Forms Private Limited, a Company incorporated under the Companies Act. The petitioner Company was established in the year 1984. The petitioner challenged the Award passed by the Deputy Commissioner of Labour mainly on the ground that it is an ex-parte Award passed and further, there is no employer employee relationship existed between the petitioner Company and the 5th respondent. The deceased mason Mr.Arumugam was not an employee of the petitioner Company and he was engaged by the 5th respondent private contractor for the purpose of executing certain civil works based on the contract between the petitioner Company and the 5th respondent. Thus, the deceased mason Mr.Arumugam was not an employee of the petitioner Company and therefore, the Deputy Commissioner of Labour erroneously entertained the petition under the provisions of the Employee's Compensation Act, 1923.

3.The learned counsel for the petitioner has stated that the petitioner Company was not in possession of the property in which the alleged incident



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occurred and the mason Mr.Arumugam died and the property was transferred in the name of another Company M/s.Chennai Auto Forgings (Pvt) Ltd., which is not a party before the Deputy Commissioner of Labour. In this regard, the petitioner Company filed an impleading petition. Even as per building contract entered into between the 5th respondent and M/s.Chennai Auto Forgings (Pvt) Ltd, the name of the petitioner was not included as a party and thus, the petitioner Company is not liable to pay any compensation to the legal heirs of the deceased mason Mr.Arumugam.

4.The learned counsel for the petitioner states that the said M/s.Chennai Auto Forgings (Pvt) Ltd., was not a party before the Deputy Commissioner of Labour and the petitioner was not an employer as far as the deceased mason Mr.Arumugam is concerned and the petitioner Company had not received notice from the Deputy Commissioner of Labour and therefore, they could not be able to defend the case before the Deputy Commissioner of Labour.



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5.Per contra, the learned counsel appearing on behalf of the respondents 3 and 4 objected the said contention by stating that the deceased mason Mr.Arumugam was working for the petitioner Company and the Deputy Commissioner of Labour considered the petitioner Company as a principal employer and accordingly, adjudicated the issues and granted compensation. Thus, there is no infirmity in respect of the Award passed.

6.Perusal of the Award reveals that there was no adjudication of issues on merits with reference to the documents and evidences. The employer-employee relationship which is vital for entertaining a petition under the provisions of the Employee's Compensation Act, 1923 is to be undertaken by the Deputy Commissioner of Labour before granting compensation under the Act. In the present case, the petitioner remained absent due to the fact that the notice was not served and further, on account of the fact the property in which the unfortunate death occurred was under the control of M/s.Chennai Auto Forgings (Pvt) Ltd., with whom the 5th respondent entered into a



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contract for construction. The said contract agreement was marked as document Ex.P11.

7.The fact remains that the Award is an ex-parte one and the disputed issues are not adjudicated with reference to documents and evidence. Thus, this is a fit case to be remanded for fresh adjudication and to afford an opportunity to all the parties and by impleading the other Company with whom the construction contract was entered into. Thus, the Award dated 03.04.2013 passed in W.C.C. No.175 of 2009, is quashed. The matter is remanded back to the 1st respondent for fresh adjudication. The parties are at liberty to file additional documents, pleadings or to impleading all other necessary parties for the purpose of effective adjudication of the disputed issues under the provisions of the Employee's Compensation Act. The 1st respondent is directed to dispose of the petition as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.



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8. Accordingly, this writ petition stands allowed. No Costs.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

(2/2)

Internet : Yes / No

Speaking order : Yes / No

ssr

To

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2. The District Collector,
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S.M.SUBRAMANIAM, J.

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