



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.41324 of 2016

P.Somasundaram (died)

1.S.Saraswathy

2.S.Manimaran

3.S.Prabhu

4.V.Malarkodi

5.Minor Dharani

S/o.Late S.Senthil Kumar,

(Minor represented by her mother and
Guardian Mrs.V.Malarkodi, the 4th Petitioner)

6.S.Sumathi

... Petitioners

Vs.

1.The Commissioner,

Coimbatore City Municipal Corporation,
Coimbatore.

2.The Presiding Officer,

Labour Court,
Coimbatore.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in I.A.No.334 of 2015 in I.D.No.323 of 2000 dated 23.08.2016 and quash the same and consequently, allow I.A.No.334 of 2015 in I.D.No.323 of 2000, by permitting the petitioner to pay cost of Rs.250/- to the first respondent.

For petitioners : Mr.S.Mukunth for
Mr.V.Sivakumar

For Respondents : Mr.S.Saravanan for R1
R2-Court



ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in I.A.No.334 of 2015 in I.D.No.323 of 2000 dated 23.08.2016 and quash the same and consequently, allow I.A.No.334 of 2015 in I.D.No.323 of 2000, by permitting the petitioner to pay cost of Rs.250/- to the first respondent.

2. According to the learned counsel for the petitioners herein that originally the workman viz., P.Somasundaram, raised an Industrial Dispute in I.D.No.323 of 2000. During its pendency, the workman died and his legal heirs have been brought on record. Subsequently, the above said I.D. has been dismissed for non prosecution and the petitioners filed two applications in I.A.No.1604 of 2013, to condone the delay in filing the restoration petition and I.A.No.1605 of 2013, to restore I.D.No.323 of 2000.

3. While considering the above said Interlocutory applications, the Labour Court allowed the petition in I.A.No.1604 of 2013, on payment of cost of Rs.2,000/- and the same was paid by the petitioners within the stipulated time. The I.A.No.1605 of 2013 was allowed on payment of cost of Rs.250/-. But unfortunately, due to inadvertence, the cost of Rs.250/- has not been paid by the petitioners herein. After realizing the mistake, the petitioners filed I.A.No.334 of 2015, to extend the time to pay the cost. The Labour Court however not convinced with the reasons for approaching the Court belatedly and dismissed the interlocutory application. As against that, the present writ petition has been filed.

4. The learned counsel for the petitioners would submit that let the order of the Labour Court, dismissing the I.D. be set aside and the matter may be taken up for hearing on merits and the parties can workout their remedies before the Labour Court. According to the learned counsel, an opportunity may be granted to the legal heirs to agitate the issues on behalf of the workman.

5. The learned counsel for the Corporation submitted that the petitioners had approached the Court after a period of one year and there was also no proper explanation for the delay and that is why, the Labour Court has rightly dismissed the application.



6. Considering the above factual narrative, this Court is of the view that in any event, the workman had died and the legal heirs have been brought on record in the proceedings before the Labour Court and this Court. Therefore, an opportunity should be granted to the legal heirs before the Labour Court to agitate the dispute on behalf of the workman. This Court also finds that in the fitness of things, the impugned order of the Labour Court has to be set aside and the matter to be remitted back to the Labour Court for fresh consideration.

7. Accordingly, the order passed in I.A.No.334 of 2015 in I.D.No.323 of 2000, dated 23.08.2016, is hereby set aside and the I.D.No.323 of 2000, shall stand restored on the file of the second respondent. Considering the year of the dispute is 2000, the Labour Court is directed to complete the proceedings within a period of six months from the date the application is restored on file.

8. With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

2.The Presiding Officer,
Labour Court,
Coimbatore.

+1cc to Mr.S.Saravanan, Advocate SR.No.15301

W.P.No.41324 of 2016

SPD(CO)
GN(22/03/2022)