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W.P.No.23268 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.06.2023

Coram

The Honourable Mr.Justice J.SATHYA NARAYANA PRASAD

**W.P.No.23268 of 2010
and MP.No.1 of 2010**

Management of Habeeb Leather Tannery,
4/6, Palamaner Road,
Kathadi Kuppam Village,
Thattaparai Post,
Gudiyatham,
Vellore, Vellore District.

... Petitioner

Versus

1. D. Sivakumar

2.The Presiding Officer,
Labour Court,
Vellore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of prohibition to prohibit the second respondent from proceeding with C.P.No.201 of 2006 filed by the first respondent.

For Petitioner	:	Mr.V.Selvaraj
For Respondents	:	No appearance for R1

ORDER

The relief sought by the petitioner in this writ petition is to prohibit



the second respondent from proceeding with C.P.No.201 of 2006 filed by the first respondent.

2. According to the petitioner, the first respondent was working in their management. During October 1995, their management was closed due to business loss and dues were paid to the 14 workmen who were employed in their management. On 17.05.2005, a Settlement under Section 18(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'ID Act') was entered into between the petitioner management and the first respondent. Subsequently, in the year 1999, the petitioner management was leased to a company viz., M/s.Mohamed Tanning Company. While so, the first respondent has filed a Claim Petition in C.P.No.201 of 2006 under Section 33(c)(2) of the ID Act before the second respondent Court, claiming a sum of Rs.63,263.75 from the petitioner management. Aggrieved over the act of the first respondent, the petitioner management has filed this writ petition before this Court, for the aforesaid relief.

3. The learned counsel for the petitioner submitted that in the terms and conditions of the Settlement dated 17.05.2005, entered between the



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petitioner and the first respondent, it is clearly stated that the first respondent has received a sum of Rs.3,580/- as settlement from the petitioner management and the first respondent has also agreed that hereafter, he will not claim any money or employment from the petitioner management and there is no employer-workmen relationship between him and the petitioner management. This clearly shows that after receiving the dues from the petitioner management, the first respondent has agreed to the terms and conditions mentioned in the Settlement and entered into the aforesaid Settlement. So, the Claim Petition filed by the first respondent against the petitioner management is not at all maintainable before the second respondent Court since the first respondent has committed a breach of Settlement.

4. The learned counsel further submitted that on behalf of the petitioner management the first respondent is represented by one Mr.A.Venkatesan in Claim Petition No.201 of 2006, before the second respondent Court. The first respondent has totally suppressed the Settlement dated 17.05.2005, before the second respondent Court. Initially, the first respondent has raised an Industrial Dispute under Section 2(a) of the ID



Act, against the petitioner management and only during conciliation proceedings, the petitioner management and the first respondent have entered into the aforesaid Settlement. The first respondent was employed with another Management and he entered into a Settlement dated 17.05.2005 under Section 18(1) of the ID Act, with that Management. The first respondent has not yet filed any counter affidavit disputing the averments made by the petitioner management. Therefore, the learned counsel prayed that this writ petition may be allowed.

5. Despite notice served on the respondents none appeared.

6. Considering the facts and circumstances of the case and also, having regard to the submissions made by the learned counsel for the petitioner, this writ petition is allowed and the second respondent is prohibited from proceeding with C.P.No.201 of 2006 filed by the first respondent. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2023
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dpq
Index : Yes/No
Speaking Order (or) Non-Speaking Order



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W.P.No.23268 of 2010

J.SATHYA NARAYANA PRASAD, J.

dpq

To

The Presiding Officer,
Labour Court,
Vellore.

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(1/5)

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