



W.P.Nos.8762 of 2021 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.8762, 8773, 8782, 8784, 8788, 8791, 8805, 8807, 8812, 9144,
9148, 9151, 9155, 9158, 9163, 9165, 9167, 9172 and 9173 of 2021
and**

**W.M.P.Nos.9297, 9305, 9310, 9312, 9316, 9333, 9337, 9342, 9346, 9671,
9676, 9680, 9685, 9689, 9695, 9699, 9702, 9707, 9712, 24390, 24391,
24392, 24394, 24396, 24398, 24402, 24403, 24404, 24412, 24413, 24414,
24415, 24416, 24417, 24419, 24420, 24421, 24422, 24423, 24424, 24432,
24433, 24434, 24435, 24436, 24437, 24440, 24441, 24442, 24443, 24444,
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24465, 24469, 24470, 24473, 24474, 24475, 24477, 24478, 24479, 24480,
24481, 24483, 24485, 24488 and 24489 of 2021**

W.P.No.8762 of 2021:

The Management of Sri Varahi Chemicals,
No.133/1A, ONGC Road,
Bhuvanagiri,
Cuddalore District.

... Petitioner

Vs.

S.Mohandoss

... Respondent



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records connected with the ex-parte award dated 10.01.2018 passed by the Labour Court, Cuddalore in I.D.No.21 of 2017 and quash the same and remand back the I.D.No.21 of 2017 and direct the Labour Court, Cuddalore to decide the same on merits after affording reasonable opportunity to the petitioner and the respondent.

For Petitioner
in all W.Ps : Ms.R.Prabhavathy

For Respondents
in all W.Ps : Mr.R.Muralidharan

COMMON ORDER

Since the issues raised in all these Writ Petitions is one and the same, with the consent of the learned counsel appearing for both sides, all these Writ Petitions are heard together and are disposed of by this common order.

2. The case of the petitioner is that the petitioner / Management is a Small Scale Industries involved in manufacturing refractory product at Bhuvanagiri, Cuddalore by using Natural Gas supplied by M/s.Gail India



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Limited. M/s.Vijaya Bank, a Nationalised Bank extended loan for its operations. Due to various reasons including stoppage of supply of natural gas by M/s.Gail India Limited, the Unit becomes sick. A fire accident had happened on 24.11.2014 at the factory site and consequently, the Unit become completely inoperative and got closed permanently. In the meantime, the respondent / workmen raised Industrial Disputes in I.D.Nos.5, 6, 8 to 24 of 2017 on the file of the Labour Court, Cuddalore. The petitioner / Management was not aware of the Industrial Dispute raised by the respondent / workmen and no notice or summons was served upon the petitioner / Management. However, the Labour Court, Cuddalore passed an ex-parte award dated 10.01.2018 directing the petitioner / Management to reinstate the respondent / workmen along with backwages and continuity of service. Aggrieved by the same, the petitioner / Management filed I.A.Nos.17 to 35 of 2018 for condoning the delay of 189 days in filing the petition to set aside the ex-parte awards dated 10.01.2018. Since the respondent / workmen failed to file counter, the Labour Court allowed the petitioner / Management to condone the delay in filing the petition to



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set aside the ex-parte award on condition to pay a sum of Rs.3,000/- to each of the respondent / workmen. Based on the above order, the respondent / workmen have filed Claim Petition and the same was decided ex-parte directing the petitioner / Management to pay a sum of Rs.64,80,000/- in total to the respondent / workmen. The Industry Unit of the petitioner / Management was closed down and due to non-payment of the dues, entire property has been attached by the Bank under the SARFAESI Act.

3. It is the further case of the petitioner / Management that the respondent / workmen have never been engaged by the petitioner / Management either as casual labourer or as permanent employee and that there is no employer-employee relationship between the petitioner / Management and the respondent / workmen. It is also submitted that the respondent / workmen were only involved in loading and unloading works in multiple Small Scale and Tiny Industrial Units located in and around Bhuvanagiri, Cuddalore District. They are unorganised workers involved in freelance work of loading and unloading in and around the industrial



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locality. It is contended that suppressing the same, the respondent / workmen have raised an Industrial Dispute against the petitioner / Management. Hence, the learned counsel for the petitioner / Management submits that the impugned awards are liable to be set aside.

4. The learned counsel appearing for the petitioner / Management submits that while entertaining the Writ Petitions, this Court, by an order dated 15.04.2021 directed the petitioner / Management to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to each of the workman within a period of sixty days from the date of receipt of a copy of this order, pursuant to which, the petitioner / Management paid the amount as directed by this Court and the execution proceedings were stayed.

5. The learned counsel appearing for the respondent / workmen submitted that admittedly the Industrial Disputes were raised by the respondent / workmen in the year 2017 and the awards were passed in the year 2018 and till date, the respondent / workmen are not able to enjoy the



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award, hence this Court may impose another condition directing the petitioner / Management to pay some more amount to enable the respondent / workmen to survive.

6. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

7. This Court takes note of the fact that the original awards dated 10.01.2018 were passed without providing an opportunity to the petitioner / Management, which led to multiplicity of proceedings on either side. Finally, leading to an exparte award dated 23.10.2019 in C.P.No.16 of 2018 directing the petitioner / Management to pay a sum of Rs.64,80,000/- in total to the respondent / workmen. It is not in dispute that the petitioner Industrial Unit has already been closed down due to in-operations and that due to non-payment of loan dues, SARFAESI proceedings have been initiated and the properties were attached by the Bank. The



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employer-employee relationship itself is denied by the petitioner / Management. Hence, there are disputed facts which are to be decided by the Labour Court before coming to a conclusion. Therefore, this Court is of the view that the impugned awards can be set aside and the matters can be remitted back to the Labour Court for fresh consideration by providing an opportunity of hearing to the petitioner / Management as well as the respondent / workmen and decide the Industrial Disputes within a period of four months from the date of receipt of a copy of this order.

8. Considering the hardship faced by the respondent / workmen, this Court is of the view that the petitioner / Management can be directed to pay a further sum of Rs.10,000/- to each to the respondent / workman. Accordingly, the petitioner / Management is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to each of the respondent / workman within a period of four weeks from the date of receipt of a copy of this order.



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9. With the above observations and directions, these Writ Petitions are allowed. No costs. Consequently connected Miscellaneous Petitions are closed.

06.07.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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Note: Issue order copy by 06.10.2023.

To

1. The Labour Court,
Cuddalore.
2. The Management of Sri Varahi Chemicals,
No.133/1A, ONGC Road,
Bhuvanagiri,
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