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C.R.P.(PD) No.1206 of 2023, etc., batch

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Dated : 19/4/2023

C O R A M

The Hon'ble Dr.JUSTICE D.NAGARJUN

Civil Revision Petition (PD) Nos.1206, 1207, 1208, 1212, 1213, 1215,
1217, 1220, 1222, 1223, 1225, 1227, 1228, 1230 and 1233 of 2023

a n d

C.M.P.Nos.8345, 8367, 8281, 8284, 8289, 8291, 8335, 8295, 8306, 8337,
8259, 8261, 8264, 8274 and 8279 of 2023

C.R.P.(PD) Nos.1206 of 2023

The Management
ECOF Industries Private Limited
Door No.3
Beemanna Garden Street
Abiramipuram
Chennai 600 018.

...

Petitioner

Vs

P. Kaveri

...

Respondent

Prayer: Petition filed under Article 227 of the Constitution of India to
set aside the order of the Joint Commissioner of Labour, Salem, dated
25/1/2023 in I.A.No.244 of 2022 in W.C.No.219 of 2021.

For Petitioner

...

Mr.S.Bazeer Ahamed



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COMMON ORDER

WEB COPY Aggrieved by the orders passed under Section 30 (1) of Workmen's Compensation Act, the Management of ECOF Industries Private Limited has filed these cases, seeking to set aside the order of the Joint Commissioner of Labour, Salem, dated 25/1/2023, in I.A.No.244 of 2022 in W.C.No.219 of 2021.

2. Heard Mr.S.Bazeer Ahamed, learned counsel appearing for the petitioner.

3. According to the petitioner, the Joint Commissioner of Labour, Salem has no jurisdiction to entertain the proceeding in W.C.No.219 of 2021, in respect of a complaint of 26 employees, including the respondents herein, that they suffered occupational disease like Silicosis, while working in the petitioner Establishment. According to the petitioner, there is a bar under Section 53 of ESI, Act, thereby, the issue in respect of compensation sought for will have to be settled only under ESI Act.



4. The petitioner Company has filed an objection before the Joint Commissioner of Labour, Salem, stating that it has no jurisdiction, in view of bar under Section 53 of the ESI Act and that the said petitions came to be dismissed.

5. Thus, on an earlier occasion also, Registry has returned the papers, stating that C.M.As are not maintainable, under Section 53 of the Act instead, the petitioner should file C.R.P.

6. Mr.S.Bazeer Ahamed, learned counsel appearing for the petitioner has resubmitted all the petitions with the following endorsement:-

“The present appeal is filed challenging the interlocutory order of the Authority. Hence substantial question of law need not be framed in the present appeal. Where there is no discrimination of the amount of the Authority. Hence, there is no scope to deposit any amount while filing the present appeal in I.A.Order”



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The above appeals are filed challenging the interlocutory order passed by the Joint Commissioner of Labour, Salem. All orders pertaining to ESI Act, 1948 and Workmen Compensation Act, 1923 (now known as Employees Compensation Act) are subject matter of appeals to the High Court.

In the case of Sri Bhavani Textiles Pvt. Ltd., I filed C.M.A challenging the I.A order dated 15/11/2019 in unnumbered ESIOP of the Labour Court, Coimbatore. However, the office insisted that only CRP is maintainable. Accordingly, I filed CRP (NPD) No.447/2020. By order dated 29/7/2020, CRP was dismissed as maintainable with liberty to convert CRP into CMA. Thereafter, CMA was numbered as 278/2021 and by order dated 6/2/2021, the appeal was heard on merits and orders were passed with certain directions. The above two orders are enclosed.

Similar order passed in CRP (PD) No.736 and 741 of 2022 is also enclosed. Hence, the CMAs filed may be numbered at the earliest and listed for admission before learned Judge.



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All orders passed under WC Act is subject to appeal before the High Court in an identical appeals under ESI Act, the Madras High Court held CRP is not maintainable and CMA is alone maintainable.”

7. The learned counsel appearing for the petitioner has enclosed copies of the orders made in C.R.P.(PD) No.447 of 2020 and C.R.P.(PD) Nos.736 and 741 of 2022 and vide, orders, dated 29/7/2020 and 8/6/2022, wherein, this Court has directed the Registry to return the papers to the counsel on record enabling them to convert C.R.P into C.M.A and present it within a period of two weeks along with Demand Draft as ordered by the Employee State Insurance Corporation.

8. In view of the above, Registry is directed to return the papers to the learned counsel appearing for the petitioner, to ensure him to convert all the Civil Revision Petition Nos. 1206, 1207, 1208, 1212, 1213, 1215, 1217, 1220, 1222, 1223, 1225, 1227, 1228, 1230 and 1233 of 2023 to Civil Miscellaneous Appeals.



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mvs.

9. Accordingly, these Civil Revision Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

19/4/2023

Index : Yes/no

Neutral Citation: Yes/No

mvs.

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