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W.P.No.24683 of 2023 & W.M.P. No.24122 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

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Orchid Pharma Limited,
Rep. by its Managing Director,
Formerly known as Orchid Chemicals and
Pharmaceuticals Limited,
No.138-149, SIDCO Industrial Estate,
Alathur, Thiruporur Post,
Kanchipuram District 603 110. ... Petitioner

Vs.

General Secretary,
Orchid Chemicals and Pharmaceuticals
Employees Union,
No.32, Padavattamman Koil Street,
Kannagapattur, Thiruporur,
Kanchipuram District 603 110 ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the I.D. No.14 of 2018 pending on the file of the Labour Court, Kanchipuram, and quash the same as being unsustainable in law on account of the order dated 27.06.2019 in M.A. No.579/2019 in C.P. No.540/IB/2019 passed by the National Company Law Tribunal, Chennai.



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For Petitioner : Ms.N. Kavitha Rameshwar
Additional Advocate General
For Respondent : Mr. V. Ajoy Khose

ORDER

The petitioner M/s. Orchid Pharma Ltd., has prayed for quashing the pending I.D. No.14 of 2018 on the file of the Labour Court, Kanchipuram. The respondent is the General Secretary, Orchid Chemicals and Pharmaceuticals Employees' Union.

2. Briefly the facts of the case:

M/s. Orchid Chemicals and Pharmaceuticals Limited is a Pharmaceutical Company located in Thiruporur, Kanchipuram District. One of the Operational Creditors of the Company submitted an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code) against the Company M/s.Orchid Chemicals and Pharmaceuticals Limited which was numbered as CP/540/(IB)/CB/2017 and which was admitted by the National Company Law Tribunal (NCLT) vide its order dated 17.08.2017. In the process of resolution, one M/s. Dhanuka Laboratories



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Limited, submitted a resolution plan which was approved by NCLT in MA/579/2019 vide its order dated 27.06.2019. In the meanwhile the respondent Union raised a dispute about the unjust denial of annual increments from 1st April 2012 to 11 employees. Since the conciliation proceedings failed, a failure report was submitted by the Assistant Labour Commissioner to the Government of Tamil Nadu which issued a G.O.(D) No.577 dated 29.10.2015 referring the matter for adjudication to the Principal Labour Court at Madras. It was also numbered as I.D.No.786/2016. However, when the Kanchipuram District got a separate Labour Court this ID No.786/2015 was transferred to Labour Court Kanchipuram and renumbered as I.D. No.14/2018. This is pending as on date. The new entity which took over the Pharmaceutical Company with a different set of directors rechristened the Company as M/s. Orchid Pharma Limited. The present petitioner contends that as many as 1409 employees including workmen were paid their dues as per the admitted claims and that as such no claims or liabilities or obligations against the erstwhile M/s. Orchid Chemicals and Pharmaceuticals Ltd., are now to be discharged by the new set up under M/s. Dhanuka Laboratories Limited.

3. Heard both sides.



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4. The petitioner Company's contention is that there is no outstanding dues to any of the employee of the erstwhile M/s. Orchid Chemicals and Pharmaceuticals Ltd. They have furnished a list of the 11 employees who signed in the resolution plan approved by the NCLT after receiving their dues in full and final settlement, and therefore, they are estopped from any further claim. Moreover, it is contended that clause 8 of the I&B Code extinguishes the claims upto the effective date as per the resolution plan and no proceedings can continue in the Labour Court, Kanchipuram.

5. The respondent Union had contended that the payment made to the 11 employees was only bonus and not the arrears of the increment due to them. Moreover, they contended that the ID was initiated much earlier and it is pending in the Labour \court and in such circumstances challenging the claim statement of the respondent Union in the Labour Court is unjust.

6. In the instant case there is no impugned order. When the petitioner Company has claimed that all dues have been settled, it is for



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them to substantiate the same in the Labour Court, Kanchipuram. In case they have merits in their case the Labour Court would decide accordingly. It is premature for this Court to interfere when no Award has been passed. I do not find any valid reason to stop the process of adjudication.

7. In the result, the Writ Petition is dismissed. No costs. Consequently connected Writ Miscellaneous Petition is closed.

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bga
Index : yes/no
Speaking /Non speaking Order



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R.HEMALATHA, J.

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