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W.P.No.25408 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.25408 of 2023
and W.M.P.No.24804 of 2023

Mailam Upking Engineering Ltd.,
No.121, Karai village,
Kancheepuram - 631 552,
Rep. by its Director - Operations

.. Petitioner

Versus

1. The Deputy Commissioner of Labour (Conciliation),
SIPCOT Project Office Campus,
Irrungattukottai,
Sriperumbudur, Kanchipuram.

2. The Superintendent of Police,
Office of Superintendent of Police,
Thaiyar Kullam,
Kanchipuram district.

3. The Inspector of Police,
Taluk Police Station,
Thiruveedhipallam,
Kanchipuram.

4. Kanchipuram General Labour Union (CITU),
No.21B, Vilakadi Kovil Street,
Kanchipuram - 631 501.
Rep. by its General Secretary

..Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3rd respondents to provide adequate Police protection for ingress and egress of vehicles and people from in and out of the factory premises and further prevent trespassing workmen by ensuring no striking workers assemble illegally in any from out of the radius of 500 meters from petitioner factory premises namely Mailam Upking Engineering Limited Registered Office, No.121, Karai Village, Kancheepuram - 631 552, pursuant to the complaint of the petitioner, dated 21.08.2023.

For Petitioner : Mr.S.Haroon,
M/s.T.S.Gopalan and Co.

For Respondents : Mr.A.Damodaran,
Additional Public Prosecutor,
for RR-1 to 3

ORDER

This Writ Petition has been filed for a direction to the respondents 2 and 3 to provide Police protection and to prevent the workmen from illegally trespassing into the factory premises and to ensure free ingress and egress of men and material to and from the factory.

2. It is seen from records that there is already a dispute between the management and the workmen and conciliation is going on before the first



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respondent. Through proceedings, dated 22.08.2023, the first respondent has directed those workmen who are sitting inside the factory premises to withdraw the same and to ensure that a peaceful atmosphere is maintained to enable the conciliation proceedings to end purposefully. In spite of the same, the 25 workmen continued to sit inside the factory premises from 16.08.2023 onwards. In view of the same, the petitioner gave a complaint both to the respondents 2 and 3. Since no action was taken, the present Writ Petition has been filed before this Court.

3. Heard Mr.S.Haroon, learned Counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for the respondents 1 to 3.

4. The issue that is involved in the present Writ Petition was already dealt with by this Court in ***Hindustan Motor Finance Corporation Ltd., Thiruvallur vs. Superintendent of Police, Thiruvallur*** reported in **2019 (3) LLN 749 (Mad.)**. The relevant portions in the judgment are extracted hereunder:

"16. It is clear from the above judgments that the entry by an employee during the working



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hours into the factory premises is lawful. However, they do not have the right to remain in the factory premises after the working hours and they continuing to remain in the factory premises after having entered lawfully is unlawful, and it will amount to trespass. An employee does not have the right to occupy the property of the employer. The act of the employees remaining after the working hours inside the factory premises will amount to seizure and holding of the building, preventing the use of the premises by the employer and practically depriving the employer of his property.

17. The conduct of respondents 3 to 21 in persisting to remain inside the factory premises of the petitioner all through the day is wholly unjustified. Even, if the respondents 3 to 21 are making efforts to impress upon the petitioner to continue their employment and by putting pressure are making the petitioner yield to their request, the method adopted by them in staying within the premises even after the working hours is unlawful. As held by this Court, the means adopted to achieve their object must also be lawful. The act of respondents 3 to 21 in continuing to occupy the premises right from 02.05.2019 onwards till date is intended to annoy, insult, intimidate and commit offences, and therefore it clearly falls within the mischief of Section 441 of IPC and the same will amount to criminal trespass.

18. This Court therefore has no hesitation to hold that the act of respondents 3 to 21 continuing to forcibly occupy the factory premises from 02.05.2019, till date clearly amounts to an offence under Section 441 of IPC and their continued sit in protest is unjustified and unlawful. Therefore, this Court has to



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necessarily dispose of this writ petition by giving certain directions."

5. In the present case, there are 25 workers who are said to be sitting inside the factory premises continuously by way of protest without leaving the factory premises. The complaint is pending before the third respondent and the second respondent is also privy about this fact after a similar complaint was given on the grievance day. In view of the same, there shall be a direction to the third respondent to deal with the complaint, dated 21.08.2022 in the light of the above judgment and take a decision.

6. This Writ Petition is disposed off with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

29.08.2023

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The Deputy Commissioner of Labour (Conciliation)
SIPCOT Project Office Campus,
Irrungattukottai,
Sriperumbudur, Kanchipuram.



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2. The Superintendent of Police,
Office of Superintendent of Police,
Thaiyar Kullam,
Kanchipuram district.
3. The Inspector of Police,
Taluk Police Station,
Thiruveedhipallam,
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N.ANAND VENKATESH, J.
grs

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