



W.P.No.29321 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.29321 of 2023 and
W.M.P.Nos.28952 & 28953 of 2023

1. M/s.The Indian Hume Pipe Co.Ltd.,
Rep. by its General Manager,
Shri. S.Arunachalam,
2nd Floor- B, Le Royal Lite Roof,
New No.361, Old No.173,
Lloyds Road (Avvai Shanmugam Road)
Gopalapuram, Chennai - 600 086.

2 M/s.JKR Construction,
Rep. by its Proprietor,
P.L.Jeyakumar,
No.6/23, Arasamarathu Street,
Virachilai, Thirumayam Taluk,
Pudukottai District.

3 V.Chellamuthu

... Petitioners

Vs.

1 The Joint Commissioner of Labour,
Vellore, Vellore District.

2 The Joint Commissioner of Labour,
Madurai, Madurai District.



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3 R.Sangeetha

4 Minor R.Rokith
S/o. Late. Rajendran
Rep. by his Natural Guardian
R.Sangeetha

5 Minor R.Lokesh
S/o. Late. Rajendran
Rep. by his Natural Guardian
R.Sangeetha

6 Kaliyammal ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings in E.C.No.39 of 2023 pending on the file of the 1st respondent and the consequential impugned notice issued by the 1st respondent in his proceedings Nil dated 23.08.2023 and quash the same as illegal, arbitrary and without jurisdiction.

For Petitioners : Mr.B.Saravanan, Senior Counsel
Assisted by
Mr.T.Sundaravadhanam

For Respondents : Mr.M.Shahjahan,
(For R1 and R2) Special Government Pleader

ORDER

The grievance of the petitioners is that though the accident took place in Madurai, the claim petition in E.C.No.39/2023 was filed before the 1st respondent / Joint Commissioner of Labour, Vellore



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without following the provisions of Sections 21 and 22 of the Employees' Compensation Act, 1923.

2. Mr.B.Saravanan, learned Senior Counsel assisted by Mr.T.Sundaravadhanam, counsel for the petitioner relied on the decisions of this Court in C.M.A.Nos.3290 and 3351 of 2019, dated 27.02.2020 wherein it was held that:

“5. Even assuming that the claim petition was filed before the wrong Commissioner, the said Commissioner will have to inform the Commissioner having jurisdiction over the area, in which the accident took place and after getting necessary orders from the Central Government with regard to the hearing of the matter by Commissioner, adjudication is permissible. The accident has taken place in Kerala and the matter has been filed at Coimbatore. But the provisions of Sections 21 and 22 has not been complied with.

“6. I find much force in the argument made on behalf of the appellant that authority has no jurisdiction in the matter to entertain the same. Though it is not mandatory to go into the other aspects, when the accident itself is said



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to have taken place on 12.12.2015 and five years have gone by now, this Court feels that the issue raised by the appellant need not be considered viz., non joinder of parties, who is the employer / immediate employer or contractor and he could have been made as a party and thereafter, the Commissioner should have decided the issue, but no steps have been taken by the claimants to make Gopi as a party to the proceeding. Even assuming for the sake of argument that the authority has Jurisdiction, this court is of the view that for non joinder of necessary parties, the claimants are not entitled to any relief. It is needless to mention that, it is open to the claimants to file a fresh case before the authority concerned, after complying with the necessary provisions under Sections 21 and 22 of the Employees Compensation Act and also including necessary parties to the proceedings, get it transferred, as per the provisions of Employees' Compensation Act.”

3. Mr.M.Shahjahan, learned Special Government Pleader appearing for the respondents 1 and 2 contended that as per the proviso to Section 21 of the Act, the Commissioner for Employees' Compensation/Joint Commissioner of Labour, Vellore had sent a



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communication to the Commissioner for Employees Compensation, Madurai vide proceedings No.C2/2240/2023, dated 07.09.2023 and the present Writ Petition has been filed only on 03.10.2023.

4. It is seen that as per Sections 21 and 22 of the Employees Compensation Act, 1923 the Joint Commissioner of Labour, Vellore has to inform the Commissioner who is having jurisdiction over the place where accident took place and also should obtain permission from the Central Government before adjudicating the matter. In the instant case, though a communication was sent to the Commissioner for Employees' Compensation, Madurai by the Joint Commissioner of Labour, Vellore, they had not obtained permission from the Central Government.

5. Mr.M.Shahjahan, learned Special Government Pleader, appearing for the Respondents 1 and 2 contended that necessary permission would be obtained from the Central Government before proceeding further in the matter.



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6. In the circumstances, I do not see any reason to set aside the entire proceedings on the ground of technicality, especially when the Joint Commission of Labour, Vellore had sent a communication to the Commissioner of Employees' Compensation, Madurai as envisaged under Sections 21 and 22 of the Employees Compensation Act, 1923. However, it is made clear that the respondents 1 and 2 should get necessary approval / permission from the Central Government before adjudicating the dispute.

7. With the above observation, this Writ Petition is disposed of.
No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non-Speaking order
vum



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To
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- 1 The Joint Commissioner of Labour,
Vellore, Vellore District.
- 2 The Joint Commissioner of Labour,
Madurai, Madurai District.



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R. HEMALATHA, J.

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