



W.P.(MD).No.27903 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 27.11.2023

ORDER PRONOUNCED ON : 30.11.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD).No.27903 of 2023

M.Venkateswaran

....Petitioner

Vs

1.The Chairman
Centre for Monitoring Indian Economy Pvt.Ltd.,
HO:11, Apple Heritage
54 C, Andheri-Kurla Road
Andheri (East), Mumbai 400 093

2.The Field Information Officer
Centre for Monitoring Indian Economy Pvt.Ltd.,
49, Aftab Arcade, TB Main Road
Madurai 625 010

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Labour Court to pass appropriate Ex.parte decree dated 17.12.2021 against the respondent No.1 as per Order 9 Rule 6 of C.P.C.

For Petitioner : Mr.V.Muniasamy



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ORDER

The present writ petition has been filed seeking a direction as against the Labour Court at Madurai to pass appropriate orders as against the first respondent as per Order 9 Rule 6 of C.P.C.

2. According to the learned counsel appearing for the writ petitioner, he was originally appointed in the first respondent company on 01.07.2011. After completing two years of probationary period, he had entered into a contract agreement with the second respondent on 04.07.2013 under the directions of the first respondent. He was terminated on 26.02.2016 without any notice or observing any one of the provisions of the Industrial Disputes Act. Hence, he raised an industrial dispute under Sections 11, 25F and 33-C-2 of Industrial Dispute Act, 1947.

3. The Labour Court without numbering the same, had dismissed the said claim petition. Challenging the same, WP(MD).No.9592 of 2018 was filed before this Court. This Court by an order dated 12.02.2020 was pleased to set aside the order passed by the Labour Court and directed the Labour Court to number the claim petition and dispose of it in accordance with law.

4. According to the petitioner, the first respondent had remained exparte and hence, he was set exparte. The petitioner had filed a memo stating that the second respondent may be exonerated. Thereafter, the Labour Court



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proceeded to hear the matter on merits and ultimately, dismissed C.P.No.11 of 2020.

5.The present writ petition has been filed on the ground that when the first respondent in the claim petition had remained exparte, the claim petition ought not to have been dismissed, but an exparte decree ought to have been passed as against the first respondent.

6.The learned counsel for the petitioner submits that the proceedings before the Labour Court are also governed by Civil Procedure Code and once the first respondent was set exparte, without proceeding with the trial, the Labour Court ought to have granted an exparte decree as against the first respondent. Hence, the present writ petition.

7.I have considered the submissions made on the side of the petitioner and perused the material records.

8.The petitioner's claim petition filed in C.P.No.11 of 2020 before the Labour Court, Madurai has been dismissed by the Presiding Officer on 19.09.2023. A perusal of the order indicates that the writ petitioner himself has filed a memo exonerating the second respondent in the claim petition. The first respondent in the claim petition was called absent and he has been set exparte. Thereafter, exparte evidence has been recorded by the Labour Court.



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9.The writ petitioner has been examined as PW1 and Exhibits P1 to P9 have been marked on his side. Based upon the exparte evidence, the Labour Court has arrived at a finding that the petitioner has not established the fact that he is an employee of the first respondent. Based upon the said findings, the claim petition was dismissed by the Labour Court. This award passed by the Labour Court in C.P.No.11 of 2020 has not been challenged by the petitioner.

10.Even in the cases where the respondents/defendants have remained exparte, it is a statutory obligation on the part of the Court to consider the oral and documentary evidence placed on the side of the petitioner/plaintiff and decide the matter on merits. In the present case, the exparte oral evidence has been recorded on the side of the petitioner and the Labour Court has also considered the documents filed on the side of the writ petitioner. Thereafter, the Labour Court has arrived at a categorical finding that the petitioner has not established the employer and employee relationship with the first respondent.

11.Just because the first respondent had remained exparte, the Court is not expected to pass a decree without considering the pleadings and evidence let in by the writ petitioner. Therefore, the order of the Labour Court cannot be found fault with. In case, if the petitioner feels that the order of the Labour Court is erroneous, it is for him to challenge the same in a manner



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known to law. Without challenging the said order, the present writ petition has been filed seeking a mandamus as against the Labour Court to pass an exparte decree as against the first respondent and the same is not legally sustainable.

12.In view of the above said deliberations, there are no merits in the writ petition. The writ petition stands dismissed. No costs.

30.11.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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