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C.R.P.Nos. 173 to 178 & 180 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM:

THE HONOURABLE Mrs.JUSTICE J.NISHA BANU

C.R.P.Nos. 173 to 178 & 180 of 2022
and C.M.P.Nos.960, 961, 964, 967, 966, 965 & 968 of 2022

C.R.P.No.173 of 2022:

The Management,
Narasimha Mills Ltd.,
Mettupalayaam Road,
N.S.N.Palayam Post,
Coimbatore- 641031
Represented by V.R.Venkatachalam

.... Petitioner

VS.

S.Palanisamy

... Respondent

PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India, challenging the fair and decretal order, dated 04.01.2022 passed by the Additional Labour Court, Coimbatore in E.P.No.10 of 2016 in C.P. No.323 of 2004.

For Petitioner : Mr.C.V.Shailandran

For Respondent : Mr.S.Saravanan



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COMMON ORDER

Since the issue involved in all these civil revision petitions are one and the same, they are disposed of by this common order. Challenging the fair and decretal order dated 04.01.2022 passed by the Additional Labour Court, Coimbatore in E.P.No.10 of 2016 in Computation Petition No.323 of 2004, the above civil revision petitions are filed.

2. The Execution Petition was filed by the respondent herein-Workman under Order 21 Rule 37, 38 and 5 of CPC, seeking arrest and detention of the erstwhile petitioner Management.

3. The erstwhile petitioner Management operated with the service of 500 labourers. Originally, Mr.Lakshmi Narasiman was conducting the affairs of the petitioner Management. The respondent and 83 other workmen have filed C.P.No.316 to 399 of 2004 against the erstwhile Management of the Narasimha Mills Limited, claiming layoff wages for the period 22.04.2003 to 30.11.2003, payment of bonus for the years 1998 to 2000, 2002-2003, salary for the days worked in the month of April 1999



and tour allowance. The respondent further claimed a sum of Rs. 42,555/- in computation petition numbered as C.P.No.323/2004 and the same was allowed by the Labour Court vide its order dated 15.04.2005.

4. Subsequently, the present Management took the erstwhile petitioner Mills on lease on 01.02.2007 and thereafter, purchased its entire shares on 09.11.2007. The manufacturing operations of the mills stopped due to various reasons on 30.03.2003. So the workmen employed therein had resigned their jobs and entered into a Settlement with the Management in accordance with section 18(1) of the Industrial Disputes Act, on 30.03.2003 and on 30.03.2006, under which the full and final settlement of all legal dues and claims including the amount of ex-gratia were paid in performance of the Settlement. When it was leased out to the present Management in 2007, even before purchasing the entire shares, there were no workers employed in the mills.

5. According to the terms of Settlement entered between the respondent and 83 other workmen with the erstwhile Management, the



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respondent and 83 other workmen have agreed to receive a sum of Rs.1,26,551/- (Rupees One lakh Twenty Six Thousand Five Hundred and Fifty one only) towards full and final settlement of all legal dues and claims and specifically the respondent and 83 other workmen have agreed in terms of the Settlement that they have received all the sums due and further undertook that in future they will not raise any claim such as monetary or other.

6. After the lapse of 10 years, the respondent-workman has filed an Execution Petition in E.P.No.10 of 2016 in C.P.No.323 to 399 of 2004 , on the file of the Additional Labour Court for realization of the Award amount of Rs.42,555/- by arrest and detention of the erstwhile Managing Director namely Mr.V.Lakshmi Narasiman, in a Civil Prison. Memo dated 06.09.2018 was furnished by the Management regarding the present Board of Directors and preferred a petition in E.A.No.136/2018 in E.P.No.10/2016 for amending the name of the Managing Director and to include his name in the Execution Petition for proper and effective disposal and the same was allowed by Labour Court vide order dated 19.02.2020.



7. According to the learned counsel for the Revision petitioner-Management, at the time of passing of Award, the petitioner Management was not party to the C.P.No.319 of 2004 and as such they are not the Judgment debtor. Especially when the Doctrine of Lifting Veil was not pressed into service by the respondent-workman and in the absence of personal obligation created under the Award qua to the Managing Director of the company, the decree obtained against the Company, per se, cannot be enforced against the present Managing Director.

8. Moreover, the learned counsel for the Revision petitioner Management would contend that the factum of Settlement entered into between the respondent workman and the Mill Management under Section 18(1) of the Industrial Disputes Act, after the date of passing of the decree in C.P.No.323 of 2004 has been ignored by the Executing Court while allowing the C.P.

9. The main contention of the learned counsel for the Revision petitioner Management is that the respondent workman having entered into



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a Settlement, has attempted to raise a dispute after 11 years, which is a clear abuse of process of law and hence, prayed for allowing the civil revision petitions.

10. Heard the learned counsel appearing for the petitioner Management and the learned counsel appearing for the respondent and perused the materials placed before this Court.

11. Perusal of records would go to show that Execution Petition filed in E.P.No.10 of 2016 itself was initially filed against the erstwhile Managing Director of the Mill namely Mr.Lakshmi Narasimhan. Moreover, the Court below failed to apply the doctrine of lifting the corporate veil, as the same was necessary for determining the real issue between the respondent workman and the erstwhile petitioner Management and fixing the liability of decretal dues on the shoulders of the present Management, who is not a party to the Computation Petition .



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12. Hence, the order impugned warrants interference of this Court.

Accordingly, the civil revision petitions are allowed. The impugned order dated 04.01.2022 passed in E.P.No.10 of 2016 in C.P.No.323 of 2004 is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

14.03.2024

Index:Yes/No Internet:Yes/No

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To:
The Additional Labour Court,
Coimbatore



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J.NISHA BANU,J.

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Common Order made in
C.R.P.Nos. 173 to 178 & 180 of 2022

Dated:
14.03.2024