



WEB COPY



W.P.No.3920 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

W.P.No.3920 of 2024
and
WMP.No.4237 of 2024

The Management
Aravenu Primary
Agri Co-op Bank Ltd.
Aravenu Post, Kotagiri
The Nilgiris.

... Petitioner

Vs.

M.Sundaram

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned award passed in C.P.No.223 of 2021 dated 07.07.2022 on the file of the Labour Court of the Nilgiris at Udhagamandalam and quash the same.

For Petitioner : Mr.S.P.Vijay Nivas

For Respondent : Mr.T.Ram Kumar



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ORDER

This Writ Petition is filed seeking to set aside the impugned award in CP.No.223 of 2021 dated 07.07.2022 on the file of the Labour Court.

2. When this Writ Petition is taken up for hearing, it was brought to the notice of this Court by the learned counsel for the respondent that the impugned order was passed exparte and as per para 3 of the impugned order, the petitioner herein filed vakalat through his counsel by Mr.V.Raj on 25.05.2022, but thereafter they have not filed counter and therefore, the respondent has been set exparte by an order dated 25.06.2022. Subsequently, the Labour Court has passed orders allowing the C.P.No.223 of 2021 on 07.07.2022 by way of Speaking Orders. However, the nature of the orders passed are only exparte. Even title of the orders shows that the respondent was absent and remained exparte, thereby petitioner ought to have



approached the Labour Court under Rule 48 of the Industrial Disputes Rules,

1958, which reads thus:

“48. Ex-parte Proceedings:(1) If, without showing sufficient cause any party to proceedings before a Board, Court, Labour Court, Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal or the Arbitrator may proceed as if the party had duly attended or had been represented.

(2) The Board, Court, Labour Court, or Tribunal or an Authority may, for sufficient cause, set aside, after notice to the opposite party, the ex-parte decision either wholly or in part, on an application made within 15 days of the ex-parte decision:

Provided that an application may be admitted after the said period of 15 days, if the applicant satisfies the Board, Court, Labour Court or Tribunal or Arbitrator, as the case may be, that he had sufficient cause for not preferring the application within that period.

(3) An application under Sub-Rule (2) shall be supported by an affidavit.”



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3. It is submitted by the learned counsel for the respondent that the petitioner ought to have approached the Labour Court under Rule 48 of the Industrial Disputes Rules, 1958, has approached this Court by filing this Writ Petition under Article 226 of the Constitution of India.

4. The learned counsel for the petitioner has submitted that since there is a delay he had approached this Court.

5. In view of the submission made by both sides and on perusal of the records, this Court is of the view that the petitioner ought to have approached the Labour Court under Rule 48 of the Industrial Disputes Rules 1958 and should have filed an application for setting aside the exparte order. The petitioner is not expected to bypass the Tribunal and approach this Court directly by filing a Writ Petition filed under Article 226 of the Constitution of India to set aside the exparte award.

6. In view of the above discussion, this Writ Petition is disposed



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of with giving liberty to the petitioner to approach the Labour Court and file an application under Rule 48 of the Industrial Disputes Rules 1958, for setting aside the exparte order and on such filing of the application before the Labour Court is directed to consider and pass appropriate orders as expeditiously as possible, by following the procedure known to Law. No costs. Consequently, connected Miscellaneous Petition is closed.

20.06.2024

Index : Yes / No
Internet : Yes / No
dna

To

The Labour Court of the Nilgiris at Udthagamandalam.



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Dr.D.NAGARJUN, J.
dna

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