



C.R.P.No.2373 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2373 of 2024 and
C.M.P.No.12462 of 2024

The Branch Manager,
Muthoot Fincorp Lt.,
No.113, 1st Floor,
Bazaar Street,
Virudhachalam,
Cuddalore District – 606 001.

... Petitioner

Vs.

Arumugam

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 12.05.2022 in I.A.No.49 of 2021 in E.C.No.1 of 2019 on the file of the Joint Commissioner of Labour-II, Teynampet, Chennai and consequently allow the I.A.No.49 of 2021 as prayed for.

For Petitioner : Mr.Velan



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C.R.P.No.2373 of 2024

ORDER

The petitioner viz., Branch Manager of Muthoot Fincorp Limited filed I.A.No.49 of 2021 in E.C.No.1 of 2019 to set aside the exparte order, dated 12.09.2019 in E.C.No.1 of 2019 passed by the Joint Commissioner of Labour-II, Chennai. The Joint Commissioner of Labour-II, Chennai by impugned order, dated 12.05.2022 dismissed the petition finding that the petition filed with a delay of 348 days. Against which, the present civil revision petition filed.

2.The learned counsel for the petitioner submitted that the Joint Commissioner of Labour-II, Chennai erred in non-consideration of vital materials and facts that the compensation case is not maintainable both on law and facts and the compensation case is liable to be dismissed for non-joinder of necessary and proper parties. The petition filed by the respondent was posted on a day. Unfortunately, there was no sitting by the Joint Commissioner of Labour-II, Chennai and it was informed that the case adjourned to some other day, but the date was not immediately informed.



He further submitted that no notice served to the petitioner with regard to further hearing of the case and later the petitioner came to understand that set exparte order passed on 12.09.2019 awarding Rs.8,36,920/- to the respondent herein. It is also surprising to see that by a registered post, dated 12.09.2029, the Labour Department sent notice requiring the petitioner herein to reply within fifteen days as to why revenue recovery proceedings should not be initiated for not complying with the order and directed the petitioner to pay the amount of Rs.8,36,920/- with interest at the rate of 12% within thirty days.

3.He further submitted that in the month of May 2022, notice sent showing that the petition in E.C.No.1 of 2019 dismissed for default for non-appearance of the petitioner. On the other hand, the order passed in E.C.No.1 of 2019 is dated 12.09.2019 wherein the petitioner set exparte. It is submitted that earlier the respondent and his wife filed Consumer Complaint No.48 of 2023 before the District Consumer Disputes Redressal Commission, Cuddalore in C.C.No.48 of 2023 for the same relief. During that proceedings, the petitioner paid Rs.5,00,000/- by way of demand draft,



C.R.P.No.2373 of 2024

dated 27.11.2023 drawn in favour of the respondent herein. Recording the same, Consumer Complaint No.48 of 2023 dismissed as settled out of Commission on 30.11.2023. In such circumstances, filing of two petitions for the same relief in two different forums cannot be entertained.

4.To put this fact and to consider the petitioner's case by the Joint Commissioner of Labour-II, Chennai, delay to be condoned, but the Commissioner without assigning any reason dismissed the petition vide impugned order, dated 12.05.2022. Now, the learned counsel for the petitioner undertakes that once exparte order, dated 12.09.2019 is set aside, the petitioner without delay would participate in the proceedings and put forth his case. Hence, sought for setting aside the impugned order, dated 12.05.2022 in I.A.No.49 of 2021 in E.C.No.1 of 2019 and also to set aside the exparte order passed against the petitioner in E.C.No.1 of 2019.

5.Considering the submissions and on perusal of the materials, it is seen that the respondent herein sought compensation against the petitioner under The Workmen Compensation Act, 1923. The respondent and his wife



C.R.P.No.2373 of 2024

Veeramal are aged parents of one Sivaperumal who employed as Collection Agent in the petitioner's company. On 26.11.2013 when he was on recovery work in course of employment met with an accident, sustained injuries and later passed away on 03.12.2013. Hence, the respondent and his wife Veeramal, parents of Sivaperumal filed compensation petition before the Joint Commissioner of Labour-II, Chennai in E.C.No.1 of 2019. During the proceedings, the respondent examined himself as PW1 and marked eight documents. The petitioner though initially participated in the proceedings before the Commissioner, later for three occasions not participated. Hence, the Joint Commissioner of Labour-II, Chennai passed exparte order on 12.09.2019 directing the petitioner to pay Rs.8,36,920/- as compensation to the respondent and his wife. Thereafter, the petitioner failed to pay compensation amount. On coming to know about coercive action was being initiated, the petitioner filed petition to set aside the exparte order, dated 12.09.2019 with a delay of 348 days which was not entertained and dismissed by the Joint Commissioner of Labour-II, Chennai on 12.05.2022.



C.R.P.No.2373 of 2024

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6.The contention of the petitioner is that the petitioner already paid Rs.5,00,000/- by way of demand draft, dated 27.11.2023 drawn in favour of the respondent as per proceedings of the District Consumer Disputes Redressal Commission, Cuddalore in Consumer Complaint No.48 of 2023. This will not be a ground for not participating in the Workmen Compensation proceedings in E.C.No.1 of 2019. Hence, this Court is of the view that substantial justice can be done only after hearing both parties and passing order on merits.

7.In view of the undertaking given by the petitioner that once the exparte order, dated 12.09.2019 and the impugned order, dated 12.05.2022 are set aside, the petitioner would participate in the proceedings without delay and put forth their case, this Court is inclined to set aside the exparte order and the impugned order but some conditions to be imposed so that the respondent/claimant are compensated for the present.



C.R.P.No.2373 of 2024

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8. In view of the above, this Court directs the petitioner to submit a demand draft for Rs.4,00,000/- (Rupees four lakhs only) in the name of the respondent/claimant viz., Arumugam, S/o.Govindan, father of Sivaperumal, within a period of two weeks from the date of receipt of a copy of this order, before the Joint Commissioner of Labour-II, Chennai. Thereafter, the Joint Commissioner of Labour-II, Chennai to issue notice to the respondent/claimant and handover the demand draft to the respondent/claimant.

9. On handing over of demand draft, the impugned order, dated 12.05.2022 in I.A.No.49 of 2021 in E.C.No.1 of 2019 and the exparte order, dated 12.09.2019 in E.C.No.1 of 2019 passed by the Joint Commissioner of Labour-II, Chennai are set aside.

10. The Joint Commissioner of Labour-II, Chennai to conduct enquiry from the stage of exparte and conclude the proceedings in E.C.No.1 of 2019 within a period of two months, from the date of restoring the case.



C.R.P.No.2373 of 2024

WEB COPY 11. With the above directions, this civil revision petition stands allowed. Consequently, connected civil miscellaneous petition is closed. No costs.

27.06.2024

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes

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Copy To:

The Joint Commissioner of Labour-II,
Teynampet, Chennai.



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C.R.P.No.2373 of 2024

M.NIRMAL KUMAR, J.

vv2

C.R.P.No.2373 of 2024

27.06.2024