



W.P.Nos.34828 of 2014 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

**W.P.No.34828 of 2014 and
W.P.Nos.739, 740, 741, 742 and 7093 of 2015 and
M.P.Nos.1 of 2014 & 1,1,1,1 and 1 of 2015**

W.P.No.34828 of 2014:

International Trading Company,
Maligai Thopu,
Kaspa "A",
Ambur - 635 802,
Vellore District,
Represented by its Proprietor

... Petitioner

Vs.

1. The Presiding Officer,
Principal Labour Court,
Vellore.
2. Yuvaraj,
S/o. Chinnaswamy
3. The Management,
M/s.S.R.Sunil and Company,
Maligaithoppur,
Kaspa, Ambur.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the first respondent in I.A.No.161 of 2014 in I.D.No.98 of 2007 and quash its order dated 24.07.2014.

For Petitioner : Mr.S.Ravindran, Senior Counsel
in all W.Ps for Mr.S.Bazeer Ahamed

For Respondents : R1 - Court in all W.Ps

Mr.S.T.Varadharajulu for R2
in W.P.No.34828 of 2014

No appearance - R2 in remaining W.Ps

No appearance for R3 in all W.Ps

C O M M O N O R D E R

These batch of writ petitions since have arisen out of the orders passed by the Labour Court in interlocutory applications filed in the respective IDs for impleading the present writ petitioner as one of the party respondent in the main IDs, all these writ petitions were heard together and are disposed of by this common order.



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2. There is a company called 'S.R.Sunil and Company', i.e., third respondent in W.P.No.34828 of 2014 and W.P.Nos.740 and 742 of 2015 where the respective employees who are the second respondent in these writ petitions had been working. At one point of time, the said S.R.Sunil and Company was closed, it is the allegation on the part of the employees that, in the same premises, another Company was established in the name of International Trading Company and was functioning by none other than the very same Partners or Directors of the said S.R.Sunil and Company.

3. It is the further case of the employees that, some of the employees who have been retrenched or denied job because of the closure of the S.R.Sunil and Company had been taken for the job by the new Company called International Trading Company, i.e., writ petitioner herein, therefore that kind of benefits should be extended to these employees also, for which, the main IDs have been filed.



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4. In the said IDs, since the International Trading Company, i.e., writ petitioner herein is not a party, the said interlocutory applications respectively had been filed by the employees in all the IDs to implead the writ petitioner - International Trading Company as one of the party respondent in the main IDs to have a complete and effective adjudication of the issue raised by these employees in the respective IDs.

5. The learned Judge of the Labour Court who heard the said interlocutory applications had come to a conclusion that, the right of the employment raised by the employees cannot be decided in the interlocutory applications, however it can be decided effectively only in the main IDs, for which, the presence of the writ petitioner, i.e., International Trading Company is necessitated, therefore accordingly the Labour Court has come to the conclusion that, the writ petitioner - International Trading Company had to be impleaded as party respondent and accordingly, the said IAs imploding the present writ petitioner as party respondent in the main IDs was allowed by the order respectively dated 24.07.2014. Aggrieved over the



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said order passed by the Labour Court, the present writ petitions have been filed by the International Trading Company, who is the petitioner in all these writ petitions.

6. Heard Mr.S.Ravindran, learned Senior Counsel appearing for the writ petitioner and Mr.S.T.Varadharajulu, learned counsel appearing for the second respondent in W.P.No.34828 of 2014.

7. In respect of some of the writ petitions, instead of S.R.Sunil and Company, there is a Company called 'Sangeetha and Company' which was also one of the Company run in the same premises by the same person, therefore the similar plea has been raised in those cases also, which has been allowed by the Labour Court, as against which, some of the writ petitions in these batches have been filed by the present writ petitioner.

8. Except W.P.No.34828 of 2014, in all other writ petitions, though notice had been served on the employees as well as Companies, no one is appeared before this Court.



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9. I have heard the learned counsel appearing for both sides.

10. Insofar as the writ petitioner company namely International Trading Company is concerned, it is a separate entity, though it had been claimed that, this Company also is being run by the very same persons who run S.R.Sunil and Company or Sangeetha and Company which were closed, it does not mean that, the properties and liabilities have been *mutatis mutandis* transferred to the petitioner Company and therefore, the present petitioner Company is having the obligation to take back the workmen of the erstwhile companies.

11. There has been no such arrangement or settlement been reached between the employees and the erstwhile Companies.

12. Therefore, insofar as the running of the International Trading Company i.e., writ petitioner herein, that it is the stand alone Company and running on its own, where, even though some of the erstwhile employees of



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the other two companies had been taken back, it cannot be treated that, it is a right of those employees to seek such an employment in the new company also.

13. Suppose the writ petitioner Company has come forward voluntarily on their own to take these employees, it may be a welcome step, however, as a matter of right these employees cannot seek for re-employment or fresh employment in the petitioner Company, as such kind of right is not vested with the employees.

14. Therefore, the employment right claimed by the employees cannot be effectively heard in the interlocutory applications and therefore, it become necessitated to implead the writ petitioner Company also as one of the party respondent was the reason stated by the Labour Court cannot be countenanced.



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15. The reason being that, even if the Labour Court take up the IDs and decide the issue where the right of the employees cannot be established against the writ petitioner Company as admittedly the writ petitioner Company being a stand alone company has no obligation to take these employees. Hence, the question of impleading themselves for adjudication does not arise as it would be a futile or unwarranted exercise amount to mis-joinder of unnecessary parties. Therefore this Court feels that, such a decision taken by the Labour Court to implead the writ petitioner as one of the party respondent in the main IDs by passing the impugned orders are unsustainable, therefore it is liable to be interfered with.

16. Resultantly, the impugned orders in all these writ petitions are liable to be set aside and accordingly are set aside. Therefore, these writ petitions are to be allowed, accordingly are allowed. If the original records are called for from the Labour Court, the Registry is directed to send back immediately to the Labour Court. The Labour Court is hereby directed to



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take up the main IDs and decide the same on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.01.2024

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

The Presiding Officer,
Principal Labour Court,
Vellore.



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R.SURESH KUMAR, J.

vji

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