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W.P.No.34284 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.01.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.34284 of 2019

and

WMP.No.34920 of 2019

M/s.Boopathy Engineering Works Private Ltd.,
Plot No.203, SIDCO Industrial Estate,
Thirumazhisai,
Thiruvallur District-601 124.
Rep. by its Director, Mr.K.Kannan.

...Petitioner

Vs.

United Labour Federation,
Regd No.2657/CNI,
represented by its Secretary,
149, Thambu Chetty Street,
C.J. Complex, Chennai-600 001.

...Respondent

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for records relating to the order dated 01.08.2019 passed by the Principal Labour Court, Chennai in I.A.No.2 of 2019 in I.D.No.344 of 20185 and to quash the same.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mrs.S.Karthikeyani



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ORDER

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Writ petition is filed challenging the order dated 01.08.2019 in I.A.No.2 of 2019 in I.D.No.344 of 2015. I.A.No.2 of 2019 was filed to restore the I.D.No.344 of 2015 which was dismissed for default for not taking steps on 15.10.2018. The original I.D.No.344 of 2015 was filed against one M/s.Kemnor Engineering India Pvt. Ltd., represented by its managing director. Notices sent to M/s.Kemnor Engineering India Pvt. Ltd., were returned with an endorsement 'vacated'. The I.D.No.344 of 2015 was called on 15.10.2018 and dismissed as the respondent was not able to serve notice to M/s.Kemnor Engineering India Pvt. Ltd. Thereafter restoration petition in I.A.No.2 of 2019 was filed on the premise that M/s.Kemnor Engineering India Pvt. Ltd., had changed its name to M/s.Boopathy Engineering Works Pvt. Ltd, as per the communication received by the counsels office on 01.11.2018. Thereafter the restoration application was filed. The director of M/s.Boopathy Engineering Works Pvt. Ltd., filed counter in the I.A. stating that the said company had nothing whatsoever to do with M/s.Kemnor Engineering India Pvt. Ltd., or its workman. It was stated that with a



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malafide and mischievous intent, it was stated that M/s.Kemnor Engineering India Pvt. Ltd., had changed its name to M/s.Boopathy Engineering Works Pvt. Ltd. It was further stated that M/s.Boopathy Engineering Works Pvt. Ltd. was incorporated under the Companies Act and was engaged in manufacturing and supply of Heat,Ventilation and Exhaust Systems and was functioning for more than 33 years. It was categorically stated that there was no name change in the company. The Labour Court on 01.08.2019 allowed the I.A.No.2 of 2019 and restored I.D.No.344 of 2015 on its finding that no prejudice was caused to the petitioner herein. Aggrieved by the order passed by the Labour Court in I.A.No.2 of 2019 the petitioner has filed the above writ petition.

2. The learned counsel for the petitioner submits that the Labour Court erred in thinking that M/s.Kemnor Engineering India Pvt. Ltd., was renamed as M/s.Boopathy Engineering Works Pvt. Ltd.. The learned counsel submits that Labour Court failed to note that there was absolutely no connection between M/s.Kemnor Engineering India Pvt. Ltd. and the



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petitioner. The learned counsel submits that by allowing the restoration application by substituting the petitioner in the name of M/s.Kemnor Engineering India Pvt. Ltd. the petitioner was un-necessarily drawn into a litigation unrelated to it.

3. The learned counsel for the respondent on the other hand submitted that the Labour Court had rightly found that the petitioner was not prejudiced by the substitution of name and further rightly left the issue of name change of M/s.Kemnor Engineering India Pvt. Ltd. to M/s.Boopathy Engineering Works Pvt. Ltd. for decision in the main I.D.

4. I have heard both the learned counsels and I have perused the materials placed on record.

5. When the petitioner had filed its detailed counter disputing the name change, the Labour Court even without considering the same allowed the application on an erroneous premise that no prejudice was caused to the petitioner. The learned counsel for the petitioner produced the Master data of the Registrar of Companies from the Ministry of



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Corporate Affairs dated 18.12.2023 which clearly shows that M/s.Kemnor Engineering India Pvt. Ltd. still exists, with its registered office at No.11, Madhi Hussain Khan Street, Royapettah, Chennai, Tamil Nadu, India, 600014. In view of the fact that M/s.Kemnor Engineering India Pvt. Ltd. is in existence, the substitution of the petitioner in place of Kemnor cannot be sustained. Further it is established that the petitioner is not related in any manner to the dispute raised before the Labour Court and hence the reasoning of the Labour Court that no prejudice would be caused to the petitioner cannot be countenanced.

I am therefore of the view that the impugned order cannot be sustained and hence the same is set aside. Accordingly, writ petition is allowed. No costs. Consequently, connected WMP is closed.

18.01.2024

Index:Yes/No
Speaking Order:Yes/No
Neutral Citation:Yes/No
dsn/shl



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N.MALA,J.

dsn

To
The Presiding Officer,
Principal Labour Court, Chennai.

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