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CRP.No.294 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

CRP.No.294 of 2025

and

CMP.No.1901 of 2025

The Management
Lakshana Cotton Spinning Mills Ltd.,
(Now) Martin Spinning Mills Private Ltd.,
Maddampalayam, Bilichi
Coimbatore 641 019.

... Petitioner

Vs.

K.N.Rajendran

...Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the plaint in E.P.No.34 of 2024 in CP.No.62 of 2012 on the file of the Additional Labour Court, Coimbatore.



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For Petitioner : Mr.S.I.Muthiah

ORDER

This Civil Revision Petition is filed to strike off the Execution Proceedings in EP.No.34 of 2024 in CP.No.62 of 2012.

2. The brief factual background in which this petition arises is that originally the Workman was sought to be non-employed in the year 2005. When the management filed an application for approval under Section 33 of the Industrial Disputes Act, the same was refused. Therefore, the Workman was deemed to be in duty. However, the Management did not comply with the order. The poor Workman was therefore forced to again file a petition under Section 33(C)(2) of the Industrial Disputes Act and the petition was filed in CP.No.62 of 2012 in which the amount was computed. Thereafter also the amount was not settled and therefore, the present Execution Petition in EP.No.34 of 2024 is filed.



3. The contention of the learned counsel for the petitioner is that

the petitioner is a subsequent purchaser in the liquidation proceedings and there is no transfer of undertaking and the petitioner is not at all liable for making the employees claims good. The petitioner is a complete third party having purchased only the machineries. The machineries worth more than Rs.5,00,00,000/- are attached and sought to be auctioned only for a due of less than Rs.5,00,000/-. The petitioner had also challenged the very order against the petitioner in CP.No.62 of 2012 and the Writ Appeal is now pending at the condone delay stage. At this stage if the execution is proceeded with, the petitioner would be put to grave prejudice and therefore, the learned counsel requests that the present petition be entertained and the Execution Petition be struck off.

4. I have considered the submissions made by the learned counsel for the petitioner.

5. The claim of the petitioner is that the petitioner is not liable for the workman's dues. Raising such a plea, the petitioner has already filed



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the Writ Petition in W.P.No.20503 of 2018, which came to be dismissed by an order dated 27.09.2023 and this Court also directed the petitioner to pay the award amount of Rs.5,43,068.92/- within a period of four weeks. As such this petitioner is in Contempt of the order of this Court. It is stated that Writ Appeal has been filed with the condonation of delay.

6. When the matter is not stayed, the employee can proceed further by way of Execution Petition. Both Contempt Application as well as Execution Petition are maintainable against the petitioner. If at all the petitioner is aggrieved, he has to follow up the Writ Appeal and seek any interim orders only in the said Writ Appeal. If the petitioner feels that the machineries are of high value, nothing prevents the petitioner to deposit the entire amount before the Executing Court.

7. Upon such deposit, naturally the Executing Court is not going to go after the machinery and the amount will be paid to the Workman. Therefore, as on date, the petitioner has not only violated the award but he is also in violation of the order passed in W.P.No.20503 of 2018 directing it to



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pay the amount.

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8. In view thereof, no grounds are made out to strike off the Execution Petition and hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Neutral Citation : No
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To

The Additional Labour Court, Coimbatore.



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D.BHARATHA CHAKRAVARTHY, J.

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