



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.31859 of 2014
and S.A.No.1291 of 2006

Mahalakshmi Patterns and Engineering Works,
Rep. By its Proprietrix,
S.S.Padma,
Having its registered office at
No.13/1, Venkatachalam Street,
Cholapuram, Ambattur,
Chennai – 53.

...Petitioner in W.P.no.31859 of 2014
& ...Appellant in S.A.No.1291 of 2006

Vs.

1. A,Hari Devan

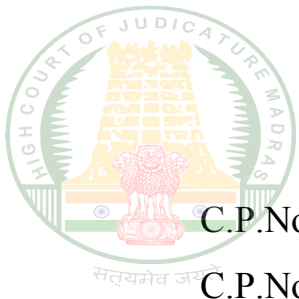
2. The Tahsildar,
Ambattur Taluk,
Chennai.

... Respondents 1 & 2 in S.A.No.1291 of 2006

3. The Presiding Officer,
II Additional Labour Court,
Chennai.

...Respondents 1 to 3 in W.P.No.31859 of 2014

Prayer in W.P.No.31859 of 2014: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in his proceedings in



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C.P.No.261 of 2000 dated 22.06.2001 and quash the proceedings in C.P.No.261/2000 dated 22.06.2001 and quash the same and to forbear the second respondent from initiating Revenue Recovery Proceeding against the petitioner on the basis of the impugned order.

Prayer in S.A.No.1291 of 2006: Section Appeal has been filed under Section 100 of C.P.C., against the judgment and decree of the Court of the Subordinate Judge, Poonamallee made in A.S.No.44 of 2004 dated 22.09.2005 confirming the judgment and decree of the Court of the District Munsif cum Judicial Magistrate, Ambattur made in OS. No.200 of 2003 dated 04.11.2003.

For Petitioner/Appellant : M/s.G.Jeremiah

...Petitioner in W.P.no.31859 of 2014

& ...Appellant in S.A.No.1291 of 2006

For Respondents : Mr.K.M.Ramesh, Sr.C.

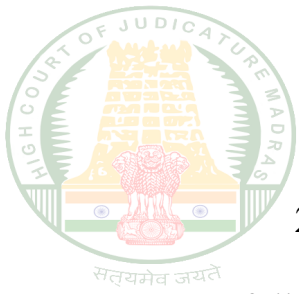
For M/s.V.Sivaraman R1 in both the cases

Mr.K.Surendran AGP R2 in both the cases

R3 - Court

COMMON JUDGMENT

The issue involved in both these proceedings are one and the same. Hence, they are disposed of by way of this common judgment. For the sake of convenience, the parties are referred to as the management and the workmen.

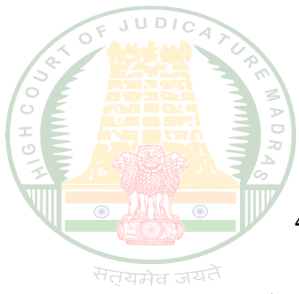


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2. The short facts that are necessary for disposal of both the matters are as follows:

The workman was working under the management for a monthly salary of Rs.1400/-. He joined management as moulder during April, 1990. He worked till 05.01.1994. Without any notice, he was terminated with effect from 06.01.1994. Hence, he raised an industrial dispute. On 27.07.1999, an award was passed in ID No.244/1994. The Labour Court has ordered reinstatement and back wages. Though the workmen sent a registered post on 15.05.2000 and requested the management to implement the order of the Labour Court, no steps were taken by the management. Hence, a claim petition, under Section 33 (C)(2) of the I.D. Act, was filed before the II Additional Labour Court, Chennai in C.P.No.261 of 2000.

3. Before the Labour Court, despite notice, the management did not appear. Hence it was set ex-parte. The first respondent examined himself and marked two documents. On the side of management, no witness was examined and no documents were marked.



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4. On an analyzes of both the oral and documentary evidence adduced on the side of the workmen, the Labour Court having satisfied with the averments made, passed a revenue recovery order dated 22.06.2001. In order to execute the said recovery proceedings, the Tahsildar, Ambattur Taluk, Chennai took steps and sought to seal the premises of the management.

5. Challenging the same, the management has filed a original suit in O.S.No.200/2003 on the file of the District Munsif, Ambattur seeking for an permanent injunction restraining the workmen and the Tahsildar Ambattur Taluk from in any manner attempting to recovery proceedings. The management lost before the trial Court and the first appellate Court. Now the second appeal is pending before this Court. Parallely, the management has also filed a writ petition. Now, this Court proceeds to deal with each of the proceedings and dispose it of in the following manner:

6. W.P.No.31859 of 2013: Questioning its liability to honour the award passed by the Labour Court in C.P.No.261 of 2000 dated 22.06.2001 and seeking to set aside the same, the present writ petition No.31859 of 2014 has



been filed.

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7. Heard the learned counsel for the Management and the learned counsel for the Workmen.

8. This writ petition is nothing but clear abuse of process of law. Having lost before the civil Courts, a blatant attempt has been made by the Management to achieve something what could not be achieved before the Civil Courts, by trying the same before this Court in Writ jurisdiction. On a perusal of the averments made in the affidavit filed in support of this Court, this Court does not find even a single valid point to come to the rescue of the Management. There is a clear mention in Ex.A3 filed before the trial Court about the order passed in C.P.No.261 of 2000 wherein the Management of Deepak Founder. Therefore, it is crystal clear of the petitioner stepped into the shoes of the erstwhile management. This Court is of the view that the management is the same and only the proprietor/owner has changed. Therefore, this Court does not see any reason to entertain the writ petition; more so, when it has been clandestinely find as a parallel proceeding, having



suffered defeat before the trial Court and the first appellant Court.

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9. In the result, the writ petition fails and the same is dismissed. No costs.

10. S.A.No.1291 of 2006: The management has filed a original suit in OS. No.200/2003 seeking for permanent injunction restraining the workmen and Thasildar, Ambattur Taluk from in any manner taking steps to initiate the recovery proceedings. In the said plaint, the workmen has filed an interlocutory petition seeking to reject the plaint. The workmen took a contention that the suit was barred under Section 418 of the Specific Relief Act and the said petition has been filed to prevent the execution petition before the Labour Court. Hence, the workmen prayed the learned trial Court to reject the plaint under Order 7 Rule 11(A) and (D) of the Code of Civil Procedure. The management has filed a detailed counter to the same. The trial Court, on analyzing the application in the IA made in the counter affidavit chose to reject the plaint. As against the dismissal of the suit, the Management has filed an appeal in A.S.No.44/2005 on the file of the Sub



Judge, Poonamallee. The first appellant Court has also confirmed the order passed by the District Munsif. Challenging the same, the present second appeal has been filed.

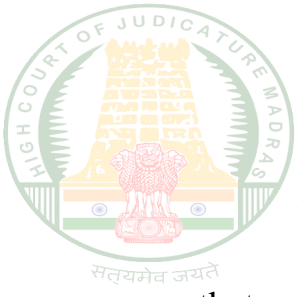
11. At that time of admitting the Second Appeal, the following substantial question of law were framed.

1. Whether the Courts below are correct in law in holding that the suit was barred by Section 418 of the Specific Relief Act. When no judgment or order of a Superior Court was the subject matter of the suit?

2. Whether the courts below were correct in law in taking note that the suit as framed was maintainable under the provisions of the Tamil Nadu Revenue Recovery Act?

3. Whether the Courts below erred on law in failing to note that in the absence of a certificate being issued under Section 33(c)(2) against the appellant, no revenue recovery proceedings could be initiated?

12. Heard the learned counsel for the Management and the learned counsel for the workmen.



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13. The learned counsel for the Management raised a same arguments that were made in the above writ petition and contended that the learned II Additional Labour Court ought not to have entertained the claim petition under Section 33(c)(2) of the ID Act. Only to execute the said order, the Tahsildar Ambattur Taluk, attempted to enter into the premises of the management. Likewise, the learned Trial Judge has grossly held in holding that the suit is not maintainable in view of Section 418 of the Specific Relief Act.

14. This Court is not in agree with any of the contention raised by the learned counsel for the Management. In the order passed in CP. No.261/2000, in Ex.A3, name of the Management has been incorporated as successor of the erstwhile Manager of the Deepak Founder. As observed earlier, only the person at a helm of affairs has changed and name of the company has changed, but a Management is the same. The attempt by the Management is only to defeat the rightful claim of the workmen. The learned trial Judge, after perfectly justified in rejecting the plaint; so as to confirm the same.



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15. This Court does not find any reason to interfere with the concurrent judgment of the Courts below. The substantial question of law are answered as against the Management.

16. In the result, the Second Appeal fails and the same is dismissed. No costs.

25.03.2025

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NCC : Yes/No

Index : Yes/No

Speaking Order : Yes/No

To:

1. The Subordinate Judge, Poonamallee.

2. The District Munsif cum Judicial Magistrate, Ambattur.

3. The Tahsildar,
Ambattur Taluk,
Chennai.

3. The Presiding Officer,
II Additional Labour Court,
Chennai.

M.DHANDAPANI, J.

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