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W.P.No.27798 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.27798 of 2025
and WMP.Nos.31138 & 31142 of 2025

M/s.S.M.S.Constructions
Rep by its Proprietor
S.Mathivanan
II Floor, Old No.63, New No.512
T.T.K.Road, Alwarpet
Chennai - 600 018.

... Petitioner

Vs.

1.The District Collector
Office of the District Collector
Collectorate Building
Chennai - 600 001.

2.The Tahsildar
Office of the Tahsildar
Mylapore Taluk
Chennai - 600 004.

3.The Assistant Commissioner of Labour
DMS Campus, Teynampet
Chennai - 600 006.

4.P.Balan

... Respondents



W.P.No.27798 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the order passed by the third respondent in D1/2544/17, dated 12.10.2017, quash the same and consequently direct the respondents 1 to 3 herein not to take any coercive action against the petitioner company.

For Petitioner : Mr.R.M.Pradeeban

For Respondents : Mr.M.Murali
Government Advocate for R1 to R3

ORDER

The petitioner has filed the above writ petition seeking to quash the order passed by the third respondent in a proceeding bearing No.D1/2544/17 dated 12.10.2017, and consequently to direct the respondents 1 to 3 not to initiate coercive steps.

2. The short facts which have given rise to the above writ petition are herein below set out :

- a. The petitioner is engaged in the construction business at a large scale in many places in Chennai. The fourth respondent had joined the service of petitioner on 27.04.2000 as site engineer.



WEB COPY



W.P.No.27798 of 2022

The fourth respondent was entrusted with several projects that were undertaken by the petitioner in various places at Chennai viz., Nungambakkam KNK Road, Boat Club Road, Habibullah Road, and also at T.Nagar. After putting in 13 years of service, the fourth respondent was promoted to the post of Project Engineer in the petitioner company. The fourth respondent during his employment in petitioner company, had indulged in illegal acts, which had caused financial loss to the petitioner-company.

- b. The petitioner had learnt that the fourth respondent, with an intention to defame the petitioner company, had contacted the building owners / clients directly and demanded payments for the improper works and mistakes done by him.
- c. It is also alleged that the fourth respondent had contacted the suppliers of the petitioner-company and raised double claim / false claim bills with an ulterior motive and collected payments from the petitioner company with the help of other staff.
- d. Thereafter, on 18.12.2013, the fourth respondent had submitted his resignation letter. The fourth respondent at the time of his



WEB COPY



W.P.No.27798 of 2022

resignation had undertaken to complete the incomplete projects, but has not kept his promise and had joined a new company. This apart, he had also instigated the other staff of the petitioner-company to quit their job in the petitioner-company and to join with him in his new company. Owing to the unprofessional and illegal acts of the fourth respondent, the construction work of the petitioner-company was affected and the petitioner-company suffered a huge monetary loss.

- e. The petitioner-company has also accepted his resignation through email dated 23.12.2013. However, as per the Standing Orders of the petitioner-company, it required the fourth respondent to continue 'on roll' in the petitioner-company, till a clearance is obtained from its Technical Department.
- f. On 01.07.2014, the fourth respondent had addressed a letter to the petitioner company intimating that his resignation having been accepted by the petitioner-company as early as on 23.12.2013, but till date, he was not informed about his PF settlement and other dues.
- g. Subsequently, on 14.07.2014, the fourth respondent was



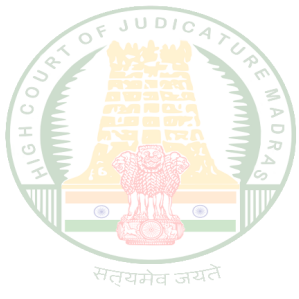
WEB COPY



W.P.No.27798 of 2022

declared to have relieved from the services of the petitioner-company. On the same day i.e.14.07.2014, the petitioner company had also sent a reply to the fourth respondent enclosing a cheque bearing No.49941 dated 14.07.2014 for Rs.17,500/- towards part payment amount payable for the month January 2014, wherein it had also informed that a part payment of Rs.20,000/- vide another cheque bearing No.499043 dt. 05.02.2014 had already been disbursed to the petitioner.

- h. While so, the fourth respondent had filed a claim application before the Assistant Commissioner of Labour (Controlling Authority) Under the Payment of Gratuity Act, 1972, the third respondent herein, along with a condone application, claiming a sum of Rs.1,53,000/- along with interest. The same was taken on file in P.G.No.12/2015.
- i. The third respondent had passed an order dated 19.02.2016, directing the petitioner-company to pay a sum of Rs.1,53,000/- towards gratuity with interest at the rate of 10%, to the fourth respondent.



WEB COPY



W.P.No.27798 of 2025

- j. On 12.10.2017, the third respondent had issued a recovery proceedings under Section 8 of the Payment of Gratuity Act, 1972, to the first respondent, which is impugned herein, to recover a sum of Rs.1,53,000/- along with a compound interest of 15% from the petitioner-Company.
- k. Meanwhile, the fourth respondent had filed W.P.No.29622 of 2019 for issue of a mandamus to direct the District Collector, Chennai, the first respondent, to implement the recovery proceeding issued by the third respondent vide Certificate dated 12.10.2017. This Court, by an order dated 04.04.2025, had allowed the writ petition and directed the first respondent to implement the proceedings initiated under recovery certificate dated 12.10.2017, within a period of twelve weeks.

It is at this juncture, the petitioner company has come forward to file the present writ petition challenging the order of the third respondent dated 12.10.2017.

3. Heard the learned counsel for the petitioner and Mr.M.Murali, learned Government Advocate for respondents 1 to 3.



W.P.No.27798 of 2025

WEB COPY

4. The fourth respondent had filed a claim petition in P.G.No.12/2015 before the third respondent, who *inter alia* had passed an order on 19.02.2016, in and by which, it directed the petitioner-company to pay the gratuity amount of Rs.1,53,000/- with interest of 10% to the 4th respondent/claimant. Since the amount was not paid to him, the claimant thereafter preferred an application on 11.05.2017 before the authority, pursuant to the same, certificate of recovery was issued under Section 8 of the Act, on 12.10.2017 to the District Collector, the first respondent herein, to recover the said amount from the petitioner Management. In the meantime, the claimant/fourth respondent has exercised his legal right by filing a writ petition in W.P.No.29622 of 2019, seeking a mandamus for implementing the recovery certificate dated 12.10.2017, and this Court had also passed an order on 04.04.2025, in and by which, the first respondent was directed to implement the recovery certificate, within a period of 12 weeks from the date of receipt of a copy of the order.

5. A mere perusal of the records would show that the petitioner has neither challenged the original order dated 19.02.2016 directing it to make



W.P.No.27798 of 2025

WEB COPY

payment to the fourth respondent nor had chosen to challenge the recovery certificate issued by the third respondent as early as in the year 2017 vide proceedings dated 12.10.2017. Now since the order of this Court in W.P.No.29622 of 2019 was in force directing the first respondent to implement the recovery certificate, the petitioner-company is before this Court to quash the recovery certificate dated 12.10.2017 issued by the third respondent, which is after a lapse of nearly eight years. Therefore, this Court is of the view that the relief claimed by the petitioner-company cannot be granted at this belated stage.

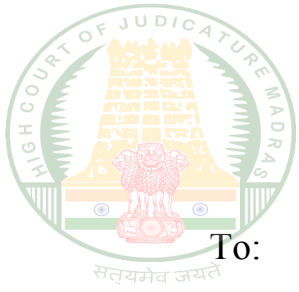
6. With the above observation, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

01.08.2025

Index : Yes / No

Neutral Citation : Yes / No

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W.P.No.27798 of 2023

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