



WP No. 31607 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP No. 31607 of 2022

and

WMP Nos.31060 and 31061 of 2022

1. Gunasekaran
Proprietors 'Shine Fab Care',
L.G.Nagar, Phase-2,
Maruthachalam Thottam, Vellore
Main Road, Pothanur, Coimbatore.

2. Kavitha
Proprietors 'Shine Fab Care',
L.G.Nagar, Phase-2, Maruthachalam
Thottam, Vellore Main Road,
Pothanur, Coimbatore.

Petitioner(s)

Vs

1. The Commissioner for Workmen's
Compensation /
Joint commissioner of Labour,
Coimbatore-18.



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2.Nageswari
W/o.Late Loganathan, D.No.19/23,
Mudaliar Street, Vellalore, Padanur,
Coimbatore.

Respondent(s)

Writ petition is filed under Article 226 of the Constitution of India, pleaded to issue writ of Certiorari, calling for the records of the 1st respondent dated 5.07.2022 passed in I.A. No.45 of 2021 in E.C. No.10 of 2018 and quash the same as illegal, arbitrary, unlawful and against the principles of natural justice.

For Petitioner(s): Mr.S.Viswanathan

For Respondent(s): Mrs.M.Jayanthi,
Additional Government
Pleader,
for R1
M/s.V.Porkodi,
for R2

ORDER

Writ petition is filed to quash the order dated 05.07.2022, in I.A.No. 45 of 2021 in E.C. No.10 of 2018.



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2. The petitioners are carrying on dry cleaning and ironing business in the name and style of 'Shine Fab Care'. The 2nd respondent worked on daily wage basis with the petitioners. While so, on 01.04.2016, the 2nd respondent met with an accident injuring her left hand fingers. The petitioners state that the medical expenses of the 2nd respondent were borne by the petitioners and also compensation of Rs.2 lakhs, was paid to her, which she acknowledged. The petitioners state that the 2nd respondent despite receiving compensation, after lapse of nearly 1 ½ years, filed a petition for compensation before the 1st respondent in EC.No.10 of 2018. As the petitioners did not contest the proceedings, the 1st respondent passed an ex-parte order on 28.02.2019. The petitioners filed an Interlocutory application seeking to set aside the ex-parte order and the same was allowed. The petitioners did not participate in the proceedings and so, the 1st respondent again passed an ex-parte order, on 05.10.2021. The petitioners filed I.A No.45 of 2021, to set aside the ex-parte order dated 05.10.2021. The 1st respondent vide impugned order dated 05.07.2022, dismissed the I.A. Aggrieved by the dismissal of the I.A, the petitioners have filed the above writ petition for the aforesaid relief.



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3. The learned counsel for the petitioners submitted that the 1st respondent, in the interest of justice, ought to have allowed the Interlocutory Application, giving an opportunity to the petitioners to contest the case on merits. The learned counsel further submitted that the petitioners had a good case on merits. The learned counsel submitted that the 2nd respondent already received compensation of Rs.2 lakhs, from the petitioners and also executed a receipt for the same. The learned counsel submitted that the petitioners should therefore be given an opportunity to contest the case on merits, otherwise, the petitioners would be put to great hardship and loss.

4. The learned counsel for the 2nd respondent submitted that on the facts of the case, the Labour Court rightly found that the petition lacked bona fides, since despite its earlier order, setting aside the ex-parte order, the petitioner failed to participate in the proceedings. The learned counsel therefore submitted that there was absolutely no infirmity or illegality in the order passed by the Labour Court, and hence, the writ petition deserved to be dismissed. The learned counsel also objected to maintainability of the writ



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petition, on the ground of availability of alternative remedy under Section 30 of the EC Act.

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

6.The undisputed facts are that, the 1st respondent in EC No. 10 of 2018, passed ex-parte Award granting compensation of Rs.3,75,802/- to the 2nd respondent for the occupational injury sustained by her, on 01.04.2016. The petitioners filed application in IA No.15 of 2019, to set aside the ex-parte order and same was allowed. Thereafter the matter was taken up afresh. However, the petitioners again remained absent and therefore again ex-parte order was passed on 05.10.2021. The petitioner filed IA No.45 of 2021, to set aside the ex-parte order, dated 05.10.2021 in EC.No.10 of 2018. The said application was dismissed by the 1st respondent and therefore, the present writ petition.



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7. Upon perusal of the impugned order, it appears that the petitioners were given ample opportunity to contest the case on merits, but they failed to avail the opportunity. The petitioners, on an earlier occasion, were set ex-parte and on the basis of IA.No. 15 of 2019, filed by the petitioners, the ex-parte order was set aside and the petitioners were given opportunity to contest the matter on merits. Despite the opportunity, the petitioners again remained absent and therefore an ex-parte order was, passed again on 05.10.2021. The petitioners filed IA No.45 of 2021, to set aside the ex-parte order dated 05.10.2021. The 1st respondent found that there was no bona fides in the petitioners' petition and therefore, dismissed the petition by observing that the petitioners had statutory right of appeal against the ex-parte order. Notwithstanding the aforesaid order of the authority, the petitioners instead of filing an appeal under Section 30 of the Act, have filed the above writ petition.

8. The 2nd respondent filed the application for compensation as early as in 2018, and the first ex-parte order was passed on 28.02.2018, from then on, the petitioners have been dragging the proceedings. Though the



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petitioners contend that the 2nd respondent received Rs.2 lakhs as compensation and issued a receipt in acknowledgement of the same, the petitioners have failed to enclose the original receipt in the typed set of papers, filed in the writ petition. In the absence of the original receipt, this Court is not inclined to entertain the contention on the basis of mere xerox copy. Even the other reason, regarding the medical condition of the attending counsel before the Labour Court is concerned, this Court finds the reason unacceptable since it was not raised before the 1st respondent in the affidavit filed in support of the IA.

9. The learned counsel finally contended that due to Covid, the petitioners were not able to prosecute the case. It is to be noted that the ex-parte order in the first instance was passed on 28.02.2019, and the same was set aside in IA.No.15/2019. The impugned order was passed on 05.10.2021, which the petitioner admittedly received on 21.10.2021. This Court finds that nothing prevented the petitioners from availing the statutory remedy of appeal under Section 30 of the EC Act, particularly, when a specific reference was made to the same in the impugned order. This Court is



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therefore constrained to conclude that the petitioners are trying to protract the litigation with a view to deprive the 2nd respondent, the benefit of the order passed in her favour.

10.Hence, this Court find no merit merit in the writ petition.

Therefore, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Dsn / AP

18-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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N.MALA J.
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