



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2021

:CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.43947 of 2006

M/s.Hatsun Agro Products Ltd.,
Thimmasamudram Village,
Kancheepuram Taluk & District

.... Petitioner

-vs-

1. The Deputy Commissioner of Labour-II,
(Commissioner for Workmen's Compensation-II)
D.M.S. Complex, Chennai - 600 006.

2. Nagavel

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for records relating to the Order dated 16.10.2006 in I.A.No.97 of 2005 of the I Respondent, quash the order.

For Petitioner : M/s.Jayaraman & Associates

For Respondents: No appearance (R2)

O R D E R

This Writ Petition has been filed by the Management challenging the order of the first respondent dated 16.10.2006 in I.A.No.97 of 2005, by which the Interlocutory Application filed by the Second Respondent/Workman seeking to restore W.C.No.106/2004 was allowed.

2. The case of the petitioner in brief, is as follows:

(i) Petitioner-Company is engaged in manufacturing Ice Creams and other Agro products, apart from processing, packing and selling the milk under the name and style "Arokya Milk". For the purpose of transporting milk from the factory to various places, the Petitioner-Company engages many vehicles on Contract basis and the transporters engage their own men for transporting milk and they used to claim their service charges from the petitioner-Company based on the number of kilometres they have plied and their bills are settled by the Petitioner Company on receipt of invoices. While so, the Second Respondent filed an Application under Section 10 of the Workmen's Compensation Act, 1923, before the First Respondent against the Petitioner-



Company, alleging that he had met with a road accident on 24.10.2002, while he was transporting milk in a van bearing Registration No.TN-21-B-8449 and sustained injuries in his left hand and in left finger, and in the said application, the Petitioner-Company appeared before the first Respondent and filed its detailed Counter Statement stating that the Second Respondent was not its Workman and no Employer-Employee relationship existed between them and the second respondent was only a cleaner in the van bearing Registration No.TN-21-B-8449. As the Second Respondent failed to adduce the evidence of Doctor in spite of several adjournments and has also not appeared before the first respondent, the Application filed for compensation was dismissed by the first respondent on 27.09.2004 for default and non appearance.

(ii) After a lapse of five months, the Second Respondent filed an Interlocutory Application in I.A.No.37 of 2005 to restore the main Application, without filing any Application for condoning the delay and since the Workman failed to appear before the first respondent on various dates, the said Application was also dismissed for default on 20.04.2005. Further after the lapse of three months, the second respondent once again filed an Application for restoration in the Form of Memo and the same was numbered as I.A.No.97 of 2005 and the same was dismissed as not maintainable.

(iii) The Second Respondent once again filed his third Interlocutory Application under Order 9 Rule 9 of the Civil Procedure Code, 1908 and the same was numbered as I.A.No.97 of 2005, which was dismissed for default on 20/04/2005. However, the First Respondent subsequently, vide impugned order dated 16.10.2006, allowed the said Application on the ground that no prejudice is going to be caused to the first respondent in allowing the Application. Challenging the said order, the Petitioner-Management has come forward with this Writ Petition seeking for the aforesaid relief.

3. The learned counsel for the Petitioner-Company submitted that though the Second Respondent has not made any prayer for condonation of delay in the Interlocutory Application, the first respondent has gone beyond the scope of prayer in the Application and went to the extent of condoning the delay for an unspecified period in the impugned order dated 16.12.2006. He further submitted that the first respondent, while allowing the Interlocutory Application, has not taken note of the fact that the application filed by the Second Respondent is barred by limitation and therefore seeks to set aside the impugned order of the first respondent dated 16.12.2006.

4. Heard the learned counsel for the Petitioner and perused the materials available on record.

5. The Workman herein sought for Compensation in the year 2004 before the first respondent herein and that the accident is



said to have taken place in the year 2002. Almost 19 years have gone by and there is no finality to the litigation. Though the order has been passed for restoring the case, which is under challenge in this Writ Petition, this Court finds that there is no speaking order on the part of the Authority in restoring the case on file.

6. In view of the fact that the litigation is pending for 19 years, this Court directs the Employer to track the details of the employee and furnish the same before the Authority concerned to enable him to send notice to the employee and the said Authority is expected to decide the matter on daily basis, without adjourning the matter beyond five working days at any point of time and pass orders on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. If the correct address is not furnished or the employee is no more, the writ petitioner will have to comply with the order of the Authority under Workmen's Compensation Act, 1923.

7. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

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To

The Deputy Commissioner of Labour-II,
Commissioner for Workmen's Compensation-II)
D.M.S. Complex, Chennai - 600 006.

W.P.No.43947 of 2006

SMI (CO)
GMY (08/12/2021)