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C.R.P.No.5230 of 2024 *uuu*
C.M.P.No.29239 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-12-2024

CORAM

THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.5230 of 2024 and

CMP No.29239 of 2024

M. NAGAPPAN

Secretary, Vellore District, Dr.Ambedhkar General
Workers Union, Regn.No.1592/VLR, No.7/3,
Annai Ramabai 3rd Street, Kaspa B, Ambur Tk.,
Ambur, Thirupattur Dist - 635 802.

.... Petitioner

Versus

THE MANAGEMENT

TAW Footwear Division, Chinnakommeswaram,
C Road, Gengapuram Post, Ambur Tk., Ambur,
Thirupattur Dist - 635 802.

.... Respondent

Prayer:

Civil Revision Petition under Article 227 of the Constitution of India to set aside the return order dated 25-10-2024 made in un numbered OS.SR.No.136/2024 (CNR.No.TNTUOB000134024) on the file of the Dist.Munsif At Ambur and consequently direct the Dist.Munsif at Ambur to take the suit on file and decide the issue on merit.

For Petitioner : Mr.S.T.Varadharajulu



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ORDER

This Civil Revision Petition challenges the order of the learned District Munsif at Ambur, Tirupattur District in returning O.S.SR.No.136 of 2024.

2. The Civil Revision Petitioner is the Secretary of the recognized Workers Union of the respondent industry. Through the plaint, it pleaded that contrary to the claims of the workmen, the respondent is attempting to sell the machinery and ensure that the workmen are not paid their dues. Attempts are also made to create a situation, in the event the Union succeeds in obtaining the award in I.D.No.3 of 2023, there will be no assets left in the Company for the workmen to proceed against. Hence, it presented O.S.SR.No.136 of 2024 seeking for prohibitory injunction against the respondents.

3. The suit came to be presented on 06.09.2024. The suit was returned stating how it is maintainable. Endorsement was made and represented. Yet, again it was returned saying that the previous return has not been complied with. Finally on 25.10.2024, the learned District Munsif at Ambur returned



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the plaintiff stating,

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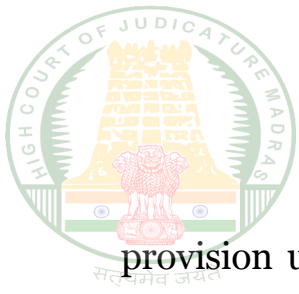
"As per representation, the suit to be filed before the Labour Court. Hence, the plaint is returned."

4. Challenging the same the present civil revision petition.

5. I heard Mr.S.T.Varadarajulu for the civil revision petitioner. Mr.Varadarajulu, relying upon the classic judgment of the Supreme Court in **Premier Automobiles Limited -Vs- Kamalakar Shantharam Wadke and Others [1975 (2) LLJ-0445-SC]** states that the suit is maintainable and hence seeks for setting aside the order.

6. I have carefully considered the submissions of Mr.Varadarajulu and have gone through the precedent cited above.

7. The bar of jurisdiction of civil Court with respect to Industrial Disputes Act arises, when there is a mechanism available under the Industrial Disputes Act, to redress the grievance of a workman or a Union. If there is no



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provision under the Industrial Disputes Act, the doors of the Civil Court are always open to a party to knock on. The Industrial Disputes Act, as it stands today, does not contemplate the Tribunal to grant any interim order. There is no provision for a party to initiate a suit before the Industrial Tribunal or Labour Court for the injunctive reliefs. Injunction can only be granted by the Civil Court, unless and until the said power is specifically denuded from the Civil Court and granted to any Special Court or Tribunal.

8. As rightly contended by Mr.Varadarajulu, the Supreme Court in Para 23 of the said judgment had held that if a dispute is not an industrial dispute, nor if it relates to enforcement to any right under the Act, the remedy lies only before the Civil Court.

9. Apart from these aspects, I have to recollect to the judgment of **Hon'ble Mr.Justice N.Seshasayee** in **Selvaraju and Others -vs- Koodankulam Power Corporation [2021 (4) CTC 539]**. The learned Judge has held that at the time of numbering of the plaint, the Court is only performing ministerial act. He need a Court at that stage, need not take upon itself the role of the defendant and raise the issues which ought to be raised



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on the judicial side.

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10. In the light of the above discussion, the civil revision petition is succeeds.

- The endorsement made by the learned District Munsif, Ambur on 25.10.2024 in O.S.SR.No.136 of 2024 is set aside.
- The learned Judge is requested to receive the plaint and number the same if it is otherwise in order.
- It is made clear that the learned Judge shall act on the web copy of this order and need not wait for the certified copy.

With the above observations, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2024



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Index : Yes/No
NCS : Yes/No
KST

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Note to Registry:

- (1) Order copy to be uploaded today (21.12.2024)**
- (2) The original of the plaint shall be returned to Mr.S.T.Varadarajulu after obtaining the usual endorsement.**



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V.LAKSHMINARAYANAN, J.

KST

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