

BEFORE THE ADDITIONAL LABOUR COURT, COIMBATORE.

Present :- **Thiru. K.ARUNACHALAM, M.A., M.L.,**

Presiding Officer,

Additional Labour Court, Coimbatore.

Thursday, the 13th day of February 2025

EA 1/2025 in

EP. No. 34/2024

(CNR. No. TNCB04-000028-2024)

The Management,

M/s. Lakshana Cotton Spinning Mills,

Now, M/s. Martin Spinning Mills Pvt Ltd.,

Mathampalayam, Pilichi,

Coimbatore - 19

... Petitioner / Judgment Debtor

/Vs/

K.N. Rajendran,

S/o. Nanja Gounder,

No. 6/233 Pungampalayam Pirivu Thottam,

Maruthur Post, Karamadai,

Coimbatore - 104

... Respondent/Judgment Creditor

This petition came up for final hearing before me on January 29, 2025 in the presence of Thiru. N. Rathinakumar, Learned Counsel for the petitioner / Judgment Debtor and Thiru. Vijayarajan, Authorized Representative for the respondent / Judgment creditor and upon perusing the entire case records this court delivers the following:-

ORDER

The petition is filed under Order 9 Rule 7 of Code of Civil Procedure to set aside the exparte order passed against the judgment debtor on 12.11.2024.

2. Petition averments in breif : -

The petitioner is the management cum judgment debtor. CP No. 62/2012 was allowed in favour of the respondent worker on 18th of April 2014. The outstanding sum is Rs. 5,43,068.92/-. WP. No. 20503 of 2018 was dismissed by the Hon'ble High Court of Madras on 27th of September 2023. The petitioner management failed to file counter and they were set exparte on 12th of November 2024 before this executing Court. Subsequently, the property was attached and the sale proceedings were pending. There was a delay in receiving the writ order copies. Hence the management was unable to file counter in time. The petitioner management has preferred a writ appeal in SR. WA. No. 166652 of 2024 and the same is pending disposal. Condone delay petition in filing the appeal vide CMP No. 525 of 2025 is also pending disposal before the Hon'ble High Court of Madras. The petitioner management has every chance to succeed in the appeal. If the executing Court sold away the property it would cause irreparable loss to the management. Hence the exparte order dated 12th of November 2024 is liable to be set aside in the interest of justice. The main counter is also filed along with. Hence this petition.

3. Counter averments in brief :-

EA 1/2025 is frivolous and not maintainable. The petition is filed only to delay the proceedings further. The court has granted several opportunities to the petitioner management before attaching schedule property. Now the auction sale is pending disposal. The petitioner management has no intention to obey the order of this Court. The writ petition was also rightly dismissed by the Hon'ble High Court of Madras. No writ appeal is pending as on date. The petitioner management would admit that only writ appeal is pending in SR stage. The gratuity claim was also awarded in favour of the workers. The Hon'ble High Court of Madras also upheld the gratuity as against the petitioner management. Appropriate auctions seeking attachment are also pending disposal before the Controlling Authority under the Payment of Gratuity Act. If the property is brought to auction, it will benefit the workers to a larger extent. The management has no intention to obey the order for a period of more than 13 years. They suppressed the material facts and filed this application. The order passed in CP. No. 62 of 2012 is perfect and justified. Hence this petition is liable to be dismissed.

4. On the Point :- Whether the petition deserves to be allowed ?**5. Answer to the point :-**

EP34/2024 is pending execution for attachment and sale of the immovable property. The outstanding arrear amount is learnt to be more than Rs. 5 lakhs. It is

seen from the records that the property was attached on 25th of November 2024. The property was pending for sale by way of Court auction. Whiles, this petition seems to have been filed by the management. The connected writ petition in WP. No. 20503 of 2018 was also dismissed by the Hon'ble High Court of Madras on 27th of September 2023. Admittedly, no writ appeal is pending before the Hon'ble High Court of Madras. The management admitted to have filed CMP No. 525 of 2025 to condone the delay in filing appeal. In the considered circumstances, the petitioner management cannot legally halt the executing proceedings without obtaining stay order before the appropriate forum. Anyhow, this Court feels that the petitioner management needs to be given an opportunity to contest the case on merits since the management would submit that they have every chance of winning the appeal. Considering the entire facts and circumstances of the case, the Court deems fit and proper to dispose this application on terms as follows.

6. In the result, the petition will be allowed on the management depositing a sum of Rs.5,50,000/- before this Court on or before 24.02.2025. Failing which the petition stands automatically dismissed. Call on 25.2.2025.

(Dictated to the Steno-Typist, transcribed and computerized by her, corrected and pronounced by me on this, Thursday, the 13th day of February 2025).

PRESIDING OFFICER,
ADDITIONAL LABOUR COURT,
COIMBATORE.