
(2013) 04 MAD CK 0273

In the Madras High Court

Case No : Writ Petition No. 8066 of 2012

M.S. Murugesan

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 05-04-2013

Acts Referred:

Revenue Recovery Act, 1890 — Section 5
Workmens Compensation Act, 1923 — Section 31

Citation : (2013) 139 FLR 608 : (2013) 3 LLJ 201

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : S. Guru Moorthy, for the Appellant; R. Ravichandran, Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Vinod K. Sharma, J.—The petitioner has approached this Court with a prayer for issuance of a writ in the nature of mandamus directing the respondents 1 to 3 to initiate revenue recovery proceedings against the 4th respondent thereby to deposit the award amount together with 12% penal interest from the date of accident to till the date of deposit as per order of the 3rd respondent made in W.C. No. 286 of 2004 dated 28.4.2011. The petitioner filed a claim petition W.C. No. 286 of 2004 before the Deputy Commissioner of Labour-1, Chennai, exercising power of the Commissioner under Workmen's Compensation Act, 1923. The compensation was claimed for the injuries sustained by the petitioner in an industrial accident, which occurred on 24.12.2002. The claim petition filed by the petitioner was allowed against the fourth respondent, and Award for a sum of Rs. 96,417/- (Rupees ninety six thousand four hundred seventeen only) was passed in favour of the petitioner. Direction was also issued to the fourth respondent to deposit the amount within a period of 30 days of passing of award, failing which, the amount was to carry interest at the rate of 12% p.a as penal interest.

2. The Award has attained finality since no appeal was filed by the fourth respondent against the Award.

3. It is submitted that the petitioner filed a representation with the respondents 1 to 3 to initiate legal proceedings against the fourth respondent for recovery. It may be noted here that the representations filed by the petitioner to the respondents 1 and 2 were misconceived, as they are not the authority under the Act to execute the Award passed by the Commissioner under the Workmen's Compensation Act, therefore have no legal obligation to deal with the representations filed by the petitioner. The practice has developed in this Court to make unnecessary representations to Collector for each and every thing and thereafter come to this Court, with a prayer for issuance of writ of Mandamus, directing him decide representations of the petitioner, even in the cases governed by the statutory law under a particular Act. The Collector under the act has no role to play as in the present case, the jurisdiction to execute the Award is with the Commissioner.

4. However, in this case, the petitioner, beside making unauthorised representations to the respondents 1 and 2, has also filed representation with the third respondent, who was to exercise the power of the Commissioner under the Workmen's Compensation Act, 1923.

5. Section 31 of the Workmen's Compensation Act reads as under:

31. Recovery: The Commissioner may recover as an arrear of land revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of Section 5 of the Revenue Recovery Act, 1890 (1 of 1890).

6. Reading of Section 31 shows that the statutory obligation is cast on the Commissioner, to recover the amount under the Act as an arrear of land revenue. The third respondent in this case has failed to perform his statutory duties, inspite of representations by the petitioner, seeking recovery of the award amount. The petitioner has thus proved that he has a legal right to enforce the award and the respondent no. three is under statutory legal obligation to execute the award. The petitioner also raised writ of demand by way of representation.

7. Consequently, this writ petition is allowed and a writ in the nature of Mandamus is issued, directing the third respondent to initiate the proceedings under the Land Revenue Act, for recovery of the amount due to the petitioner. Needful to be done within one month of date of receipt of certified copy of this order.

No costs.