
(2012) 09 MAD CK 0003

In the Madras High Court

Case No : W.A. No. 1405 of 2012 and M.P. No. 1 of 2012

V. Vajjiravelu

APPELLANT

Vs

Binny Limited and Others

RESPONDENT

Date of Decision : 24-09-2012

Acts Referred:

Citation : (2013) 1 LLJ 18

Hon'ble Judges : M. Venugopal, J; Elipe Dharma Rao, J

Bench : Division Bench

Advocate : Muthukumar, for the Appellant; S. Ravindran for T.S. Gopalan and Co., for the Respondent

Final Decision : Dismissed

Judgement

Elipe Dharma Rao, J.—Aggrieved by the order dated 14.2.2011 passed by the learned single Judge in W.P. No. 16247 of 2007 wherein

and by which the second respondent employee of the writ petitioner Binny Ltd.. was directed to vacate the residential quartets and hand over the

same to the Company, the employee has filed the present writ appeal. Heard the learned counsel for the appellant and the learned counsel

representing the first respondent. Company and perused the materials on record.

2. From the averments made and on going through various materials produced on behalf of the appellant and also the impugned order passed by

the learned single judge, it is seen that while the appellant was employed with Binny Limited, he was allotted a quarters under the deed of licence

dated 9.2.1981 as per which, he should deliver vacant possession of the house to the Company within the time stipulated in the notice of

termination of licence. Since the appellant did not surrender the quarters even

after attaining the age of superannuation, the company issued notice dated 16.8.2003 revoking the licence and directed him to deliver vacant possession of the quarters within four weeks from 1.10.2003. While so, the appellant filed a PG case before the Assistant Commissioner of Labour claiming an amount of Rs. 71,747/- as gratuity due to him. The Assistant Commissioner of Labour, while rejecting the case of the employer by order dated 17.2.2005, directed that the appellant, should be paid gratuity amount along with interest at the rate of 10% per annum on the basis of which, the Tahsildar issued recovery notice claiming recovery of Rs. 71,747/-. The said orders were impugned in the Writ Petition.

3. The learned single Judge, after hearing both sides and placing reliance upon various decisions of the Hon"ble Supreme Court and the High

Courts, rejected the case of the employer and confirmed the order of the Assistant Commissioner of Labour with regard to payment of gratuity.

The learned Judge also directed the appellant to Vacate the residential quarters and hand over the same to the Company within a period of four

months from the date of receipt, of a copy of the order. It was further observed that it is for the Assistant commissioner of Labour to release the

balance or amount or gratuity deposited by the employer to the appellant on his vacating the quarters. As against the said observation, the

employee has preferred the present Writ Appeal.

4. When the matter came up to hearing today, learned counsel appearing for the Company submitted that with regard to the allotment of residential

plot as per the Memorandum of Understanding, the appellant filed a suit in O.S. No. 403 of 2010 before the XVIII Assistant Judge, City Civil

Court, Chennai and the same was dismissed for default. Regarding the payment of gratuity, he submitted that the sum of Rs. 71,747/- was

deposited on 17.2.2005 before the Assistant Commissioner of Labour in which 50% of the amount was withdrawn by the appellant as per the

Court order and the balance amount is pending.

5. The relief sought for by the appellant with regard to allotment of residential quarters to the appellant after his retirement as per the Memorandum

of Understanding, is liable to be rejected in view of the filing of the suit in O.S. No. 403 of 2010 before the XVIII Assistant Judge, City Civil,

Court, Chennai, as the appellant cannot run parallel proceedings. Regarding

payment of gratuity amount, the submission made by the learned counsel for the Company that the amount was deposited on 17.2.2005 in which 50% of the amount was withdrawn by the appellant, is not disputed. As regards the balance amount, the learned single Judge has already observed in paragraph 17 of the order that it is for the Assistant commissioner of Labour to release the same on his vacating the quarters. In view of the above, the writ appeal fails and the same is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.