

N. Sriraman and ors. Vs. Sri Ganesa Engineering Works

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Court : Chennai

Decided On : Sep-09-1966

Reported in : (1967)2MLJ63

Appellant : N. Sriraman and ors.

Respondent : Sri Ganesa Engineering Works

Judgement :

ORDER

A. Alagiriswami, J.

1. This is a petition to revise the order of the learned Chief Judge of the Court of Small Causes, Madras, in M.P. No. 1205 of 1962 in P.W.A. No. 10 of 1962. The petitioners (23 in number) applied to the Additional Commissioner for Workmen's Compensation under Section 15(2) of the Payment of Wages Act for awarding to them wages which they alleged had been wrongfully deducted. The Additional Commissioner rejected the petitioners' claim and thereupon the matter was taken on appeal to the Court of Small Causes, as provided under Section 17 of the Payment of Wages Act. The Small Cause Court dismissed the appeal for default and the M.P. No. 1205 of 1962 was filed by the petitioners to restore their appeal to file. The learned Chief Judge of the Court of Small Causes, Madras, was of opinion that he had no power to set aside the order of dismissal but that if he had the power, he would consider this as a case where the dismissal ought to be set

aside. On the first point, it has been urged by the respondent that the Court of Small Causes has no power to set aside the order of dismissal as the Court in dealing with matters arising under the Payment of Wages Act is not functioning as an ordinary civil Court, but as a specified Tribunal and therefore would not have the ordinary powers conferred on a civil Court by the Civil Procedure Code, to restore the appeal dismissed for default. With regard to the maintainability of an appeal it may perhaps be argued that the ordinary incidents of the procedure applying to civil Courts like appeals etc., would not apply. It appears to me that when the power is given to the Court of Small Causes in the city and to the District Court in the mofussil, these Courts are functioning as ordinary civil Courts of the country and as such they would have power of ordinary civil Courts at least so far as proceedings in those Courts are concerned. I am of opinion, therefore, that the learned Chief Judge of the Court of Small Causes had the power to deal with this matter and set aside ex parte order of dismissal if he chose. As the learned Chief Judge of the Court of Small Causes had already found that he considers that it is a case where he would have set aside the order of dismissal if he had the power, I do not think it necessary that the matter should be sent back. The Civil Revision Petition is allowed and the appeal would be restored to file in the Court of Small Causes. The learned Chief Judge of the Court of Small Causes will restore to file the appeal and dispose it of in accordance with law. No leave.

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