Case Citation: (2026) ibclaw.in 2699 HC

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	**01.04.2026**
Pronounced on	**30.04.2026**

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

C.M.A.No.232 of 2024 and C.M.P.No.2398 of 2024

Veejay Lakshmi Engineering Works Limited,
(Formerly known as M/s.Veejay Lakshmi Textile Limited)
Sengalipalayam,
N.G.G.O.Colony P.O
Coimbatore.

...Appellant

Vs.

GTN Enterprises Limited,
(Formerly Known as M/s.Packworth Udyog Limited)
3rd Floor palal Tower, M.G.Road Ravipuram,
Kochi -628 016
Also having office at
Dharapuram Raod Indira Nagar Tungavi P.O
Udumalpet – 642 203 ...Respondent

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Prayer: This Civil Miscellaneous Appeal is filed under Section 37 of the Arbitration and Reconciliation Act, 1996 r/w Section 13(1-A) of the Commercial Courts Act, 2015, to set aside the order dated 21.08.2023 in A.O.P.No.148 of 2023 on the file of the Commercial Court (District Judge Cadre), Coimbatore and consequently, set aside the award dated 18.12.2017 passed by the Sole Arbitrator.

For Appellant : Mr.P.R.Ramakrishnan
for Mr.R.Bharath Kumar
For Respondent : Mr.Rahul Balaji

JUDGMENT

K. GOVINDARAJAN THILAKAVADI,J.

This appeal has been filed seeking to set aside the order dated 21.08.2023 passed in AOP.No.148 of 2023 by the learned District Judge, Coimbatore and consequently to set aside the award dated 18.12.2017 passed by the sole Arbitrator.

2.We have heard Mr,P.R.Ramakrishnan, the learned counsel appearing on

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behalf of the appellant and Mr.Rahul Balaji the learned counsel appearing on behalf of the sole respondent.

3.The learned sole Arbitrator has passed the arbitral award dated 13.03.2019 holding as follows:

a. The respondent shall pay the claimant a sum of Rs.25,65,000/- towards reimbursement of the sums paid to the 9 workmen in terms of the settlement;

b. The claimant is entitled to interest at 9% p.a on the sum of Rs.25,65,000 from 08.09.2016 until the date of the award and interest thereafter would be at 12% p.a;

c) The parties shall bear their respective costs.

4. Shortly stated, in pursuant to the order dated 18.12.2017 passed in O.P.No.533 of 2017 on the file of this Court, the Sole Arbitrator was appointed to enter upon the reference and adjudicate the disputes *inter se* the parties. In the

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statement of Claim it is pleaded that the Appellant and the Respondent have engaged in the business of cotton yarn manufacturing and during the course of the business they entered into a Memorandum of Understanding dated 22.12.2004, in terms of which, the Appellant agreed to sell the whole Spinning Unit located in Udumalpet - Dhalli Road as an ongoing concern to the respondent and an Agreement of sale was entered into between them on 19.01.2005 for the sale of property at Udumalpet. Further, it is pleaded that the Appellant and the Respondent entered into a Slump Sale Agreement dated 31.01.2005, whereby the Appellant sold the Spinning Unit as an ongoing concern inclusive of all lands, factory and other buildings for a total sale consideration of Rs. 6.50 Crores. Subsequently, the physical possession of the Unit was also handed over to the Respondent on 31.01.2005 and a Deed of Indemnity was also entered into between the parties on 31.01.2005.

5.It is also pleaded that the Appellant had terminated the services of twelve workers on 12.09.2003 and industrial disputes were raised by the workers challenging the order of termination during the sale process. It is also pleaded that that in terms of Clause 12 of MOU dated 22.12.2004, and by virtue

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of Clause-11 of Slump Sale Agreement dated 31.01.2005 and by virtue of Clause-2 of Deed of Indemnity dated 31.01.2005, the Appellant agreed to settle the pending disputes / dues before the Unit was transferred to the respondent.

6.Further, by a common Award dated 27.11.2012, the Labour Court, Coimbatore set-aside the order of termination of nine workmen and directed the Respondent to re-instate them into service with continuity of service, full back wages and all other attended benefits. Pursuant to which, the Respondent requested the Appellant to settle the claims of twelve terminated workmen on 19.08.2013.

7.Since the Award of Labour Court, Coimbatore was passed ex-parte, the Respondent filed a petition to condone the delay in setting aside the ex-partie Award, which was dismissed on 06.07.2015 and against which the Respondent preferred a writ petition before this Court and by an order dated 11.08.2015, this Court was pleased to grant Interim Stay on condition to deposit 50% of the back wages within eight weeks. The said order was intimated to the Appellant through letters dated 17.08.2015 and 24.08.2025 which were duly replied by the

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Appellant. It was also pleaded that the Vice President of the Appellant Company on 12.10.2015 suggested that the respondent can settle the issues with the workers out of Court and in pursuance thereof, the respondent paid a sum of Rs.32,00,000/- (Rupees Thirty Two Lakhs only) to nine workmen. When the respondent demanded the said sum of Rs.32,00,000/-, in terms of the MOU, Slump Sale Agreement and Deed of Indemnity, the Appellant denied the liability inview of Section 25FF of Industrial Disputes Act, 1947. Hence, prayed for a direction to the Appellant to pay a sum of Rs.32,00,000/- with interest @ 18% per annum from 23.10.2015 to 17.03.2018.

8.On the other hand, the Appellant herein as respondent before the arbitral Tribunal, filed a Statement of Defence as well as Additional Statement of Defence inter-alia contenting that the subject matter of dispute is not arbitrable as it is not possible to contract out of the Statute and an Award of the competent Labour Court that had became final cannot be the subject matter of adjudication before the Arbitral Tribunal. It is also contended that the respondent was made as a party to the proceedings before the Labour Court and the respondent having failed to contest the proceedings before the Labour Court,

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was set ex-parte and invited an adverse order even in the application to condone the inordinate delay of 383 days in filing the petition to set-aside the Ex-parte Award. The respondent was not vigilant enough and was negligent in prosecuting their case and they cannot shift the blame on the appellant for their own fault. In fact, the parties have travelled beyond the Arbitration Clause and had by virtue of Section-62 of Indian Contract Act, the respondent had not chosen for the said clause and therefore, the respondent was not entitled to invoke the Arbitration Clause. The Appellant also contended that as the Unit was transferred as an ongoing concern, the employees of the Transferor Unit became part of the Transferee Unit and as per the Section-25FF of the Industiral and Disputes Act and therefore, the respondent became liable for all those workers who chose to continue their services in the respondent Company.

9.Further, the Arbitral Tribunal does not have power or jurisdiction to annul the Award of the Labour Court, which has attained finality and infact, the claim of the respondent is hopelessly barred under Section 43 of Arbitration and Conciliation Act, 1996 and the scope of Arbitration Clause cannot be extended to cover the alleged compensation. Hence, prayed for dismissal of the claim

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petition.

10.The learned sole Arbitrator passed an award dated 13.03.2019 directing the appellant to pay a sum of Rs.25,65,000/- with interest at 9% per annum from 08.09.2016 until the date of award and thereafter with interest at 12% per annum.

11.Aggrieved by this, the present appeal is preferred.

12.The learned counsel for the appellant would submit that, the arbitrator lacks jurisdiction to entertain the claim petition and the award is not supported by any materials and the same was passed on mere surmises and without any corroborative evidence to sustain the claim. Hence, the appellant was constrained to file a petition in AOP.No.148/2023, on the file of Commercial Court, Coimbatore. The learned Commercial Judge erroneously dismissed the petition, confirming the award of sole Arbitrator by an order dated 21.08.2023

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against which, the appellant herein has preferred the present appeal. He would further submit that, both the sole arbitrator as well as the learned Judge, Commercial Court have failed to appreciate the legal position that in respect of labour disputes, it is only the labour Court which as exclusive jurisdiction and the award of labour Court cannot be controlled by the terms of contract and therefore, the dispute is not arbitrable. To support his contention, he has relied upon the judgments in

(i) 2024 SCC Online SC 3691

(ii) (2021) 2 SCC 1

(iii) (2016) 8 SCC 788

(iv)(2013) 1 AIR Bom R255

(v) (2011) 5 SCC 532

13..Per Contra, the learned counsel for the respondent contended that the arbitral award is valid under law. The claim before the Tribunal was a re-agitation /challenge of the award passed by the labour Court, Coimbatore. The dispute before the arbitral Tribunal was purely contractual in nature arise out of

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the breaches committed by the appellant under the terms of MOU, Slump sale agreement and the deed of indemnity. He would further submit that, a legal drill under Section 34 has to perambulate within the statutory perimeter sketched by the Arbitration and Conciliation Act which has been elucidatively explained in a long line of authorities, more particularly in ***Crl.Appeal No.5383 of 2024 (Supreme Court of India) and (SLP) (C) No.27699 of 2018 (Supreme Court of India).*** The principle qua a legal drill under Section 34, set out in a nutshell is, it is neither an appeal nor a revision. It is a mere challenge to an award within the pigeon holes adumbrated under Section 34 of the Act. If the petitioner is able to demonstrate before a 34 Court that his claim fix into any one or more of the pigeon holes, he will be entitled to have the arbitral award dislodged. Otherwise, the Court will not venture into disturbing the arbitral award by judicial intervention. His further submission is that Section 25FF has been erroneously relied upon by the appellant with a view to escape from the liabilities.

14.Heard on both sides and records perused.

15. In the present case, it is not in dispute that the appellant had terminated the services of 12 workers on 12.09.2003 and Industrial Disputes

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were raised by the workers challenging the order of termination. By a common award dated 27.11.2012, the Labour Court, Coimbatore set aside the order of termination of 9 workmen and directed the appellant to reinstate them into service with continuity of service, full backwages and all other attended benefits.

16.According to the respondent, a sum of Rs.32,00,000/- was paid to the workers out of Court by the respondents as suggested by the appellant company on 12.10.2015. When the respondent demanded the said sum of Rs.32,00,000/- in terms of the MOU, Slump Sale Agreement and Deed of Indemnity, the respondent denied the said liability in view of Section 25FF of Industrial Dispute Act, 1947. Hence, the respondent was constrained to file a claim petition before the arbitral Tribunal.

17.Before dealing with the issues involved in this appeal, we would first decide the main point in controversy, namely whether the dispute is arbitrable one, i.e., whether the disputes relating to enforcement of award passed by the

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Labour Court, exercising the powers under the provisions of Industrial Disputes Act, 1947 is arbitrable and whether invocation of arbitration is valid after adjudication by the Labour Court.

18.The Hon'ble Supreme Court in ***Booz Allen and Hamilton Inc. Vs SBI Home Finance Ltd.,*** reported in ***(2011) 5 SCC 532*** as held that disputes relating to rights in personam are arbitrable, but disputes involving statutory rights and public fora may not be.

19.Further, in ***Vidya Drolia Vs. Durga Trading Corporation*** reported in ***(2021) 2 SCC 1*** the Hon'ble Supreme Court clarified categories of non arbitrable disputes, including matters governed by special statutes and matters involving exclusive jurisdiction of Courts/Tribunals. All industrial disputes comes under the purview of the Industrial Disputes Act, 1947. This Act provides for specialized adjudication by the Labour Courts/Industrial Tribunals. Remedies like reinstatement, which are statutory and not purely contractual. Once a dispute is referred and decided by a Labour Court, the award attains

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finality and the parties cannot re-agitate the same issue through private arbitration.

20.Therefore, a Labour Court award generally prevails over a arbitral award in cases of direct conflict regarding statutory employment rights. While the Arbitration and Conciliation Act, 1996 governs voluntary arbitration, the Industrial Disputes Act, 1947 is a specialized social legislation designed to protect workers, and its mandatory procedures cannot be over ridden by private agreements. Disputes concerning statutory protections, such as, wrongful termination, wages, reinstatement, and unfair labour practices are considered "rights in rem" (rights affecting the public / general work force) and are generally not arbitrable. If an employer attempts to use a private arbitration clause to bypass the mandatory jurisdiction of labour Courts under the ID Act, the Courts have held that the statutory forum (Labour Court) prevails.

21.Moreover, the industrial disputes act, 1947 is a beneficial legislation that takes precedents when contractual arbitration is used to override statutory rights. In other words, a decision from a labour Court or Industrial Tribunal is mandatory and takes precedents, as it operates under statutory authority to maintain industrial peace, which is superior to private contract disputes.

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22.The Hon'ble Supreme Court of India in ***Dushyant Janbandh vs. M/s.Hyundai Autoever India Pvt. Ltd. Reported in [2024] 12 S.C.R.492*** has delivered a significant ruling with respect to the interaction between contractual terms and statutory rights. The case highlights that statutory rights, particularly those related to wages and employment disputes, take precedence over arbitration clauses in employment contracts.

23.Hence, disputes involving statutory rights, such as wrongful dismissal or wage claims of workmen, are often reserved for specialized labour Courts, as they provides statutory protections (reinstatement, backwages) that private arbitrators may not have the authority to grant. If a labour Court has exclusive jurisdiction over a subject matter (such as statutory entitlements under the ID Act) its award will prevail over a conflicting private arbitral award.

24. In the present case, it is not in dispute that the appellant terminated 12 workers on 12.09.2003. The said workers have raised the industrial dispute before the labour Court, Coimbatore for reinstatement. It is also not in dispute that as per Clause 12 of the MOU, Clause 11 of Slump Sale Agreement and Clause 2 of Deed of Indemnity, the appellant agreed to settle all the pending disputes, debts, liabilities, claims, outstanding, loss and expenses. While so, the

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Labour Court, Coimbatore passed an ex-parte order of 27.11.2012 thereby setting aside the termination of 9 workers and directed the respondent invoking Section 25 FF of Industrial Dispute Act, 1947 to reinstate them with full backwages.

25.The respondent moved an application before the Labour Court for setting aside the ex-parte order and the same was dismissed on 06.07.2015. Thereafter, the respondent filed a writ petition before this Court and by virtue of order dated 11.08.2015, this Court had directed the respondent to deposit 50% of the backwages. On 12.10.2015, the respondent withdrew the writ petition and settled a sum of Rs.32,00,000/- to 9 workers. The respondent thereafter sent a demand notice to the appellant on 08.09.2016 for reimbursement of Rs.32,00,000/-. The appellant denied the liability hence the respondent filed O.P.No.533 of 2017 under Section 11 of Arbitration and Conciliation Act, which was allowed on 18.12.2017, thereby appointing an arbitrator. As rightly pointed by the appellant counsel, what is now sought to be recovered by the respondent is not wages or anything contemplated under the contract entered between the appellant and the respondent. It is only a compensation to get over the reinstatement as ordered by the Labour Court. In

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fact, the respondent did not comply with the award of Labour Court. Moreover, reinstatement of workers is not contemplated under the contract and any such compensation paid outside the contract by the appellant cannot be demanded as it is outside the purview of the contract between the parties.

26.Therefore, in our opinion the application of the ID Act with reference to the matter in dispute has not been ceased with the award dated 27.11.2015. Even if an arbitration Clause exists, it cannot override statutory remedies. Further, the parties have travelled beyond the scope of MOU and the respondent herein having submitted to the jurisdiction of the Labour Court and invited an award under the provisions of Industrial Disputes Act, 1947 and failed to challenge the award in the manner known to law, the award passed by the Arbitral Tribunal is not sustainable and in violation of the provisions of the Indian Contract Act. The learned sole arbitrator without properly considering the scope of dispute between the parties, erroneously passed an award on 13.03.2019 directing the appellant to pay a sum of Rs.25,65,000/- with interest at 9% per annum from 08.09.2016 till the date of award and thereafter with interest at 12% per annum. Even on merits, the award passed by the sole Arbitrator is unsustainable for the reason that the employees of the transferor

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unit became part of the transferee unit and as per Section 25 FF of Industrial Dispute Act, 1947 and the respondent became liable for all those workers who chose to continue their services in the respondent's Company. The arbitral Tribunal have no jurisdiction to annul the award of the Labour Court, which had attained finality and the scope of Arbitration Clause cannot be extended to cover the alleged compensation payable to the workmen.

27.Under Section 34 (2) of the Arbitration and Conciliation Act, it is open for the Court to interfere with the award, if it is in contravention of the provisions of any law, the same can be set aside. The learned Arbitrator had acted beyond his jurisdiction and passed the award which is patently illegal. The learned Judge, Commercial Court has committed an error in sustaining the award.

28.In view of the above, we are inclined to allow the Civil Miscellaneous Appeal and set aside the order dated 21.08.2023 passed in AOP.No.148 of 2023 on the file of Commercial Court, Coimbatore, consequently setting aside the award dated 18.12.20107 passed by the Sole Arbitrator, Coimbatore with liberty being granted to both the parties to work out their respective remedies in

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accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

(P.V.J.,) **(K.G.T.J.,)**

30.04.2026

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
vsn

To

1. Commercial Court (District Judge Cadre), Coimbatore

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C.M.A.No.232 of 2024

P.VELMURUGAN,J.
and
K.GOVINDARAJAN THILAKAVADI,J.
vsn

Pre-delivery judgment made in
C.M.A.No.232 of 2024
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