

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) No. 4489/2007**
% **Date of Decision: 15th December, 2009**
SHRI HARJEET SINGH BHATIA PETITIONER
! Through: Mr. Y.P. Bhasin, Advocate.

VERSUS

\$ GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS.
.....RESPONDENTS
^ Through: Mr. Sandeep S. Duggal for counsel for
the respondents No. 1, 2 & 3.
Mr. Sajan K. Singh for the respondents
No. 4, 7 & 8

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

Nobody is present on behalf of respondents No. 5, 6 & 9 despite their service by publication in 'The Statesman' dated 28.10.2009. Hence, respondents No. 5, 6 & 9 are proceeded ex-parte.

2 The petitioner Mr. Harjeet Singh Bhatia has filed this writ petition against the respondents for issuance of an appropriate writ, directions/order against respondents No. 1 to 3 not to implement the corrigendum/office order No. F.23/509/05/N/Labour/2046 dated 28.03.2007 against him.

3 Briefly stated the facts of the case relevant for the disposal of this writ petition are that an industrial award dated 15.07.1995 was passed by the Labour Court in favour of six workmen who are respondents No. 4

to 9 in this writ petition directing their reinstatement with back wages. This award was passed against the management of M/s Premier Safe Company at Jhandewalan, M.M. Road, New Delhi. The workmen have neither been reinstated nor paid their back wages despite award in their favour. The workmen took proceedings for implementation of the award before the Labour authorities and pursuant thereto, the concerned Implementation Officer issued a notice dated 22.09.2006 (Annexure A at page 14 of the Paper Book) calling upon the petitioner to implement the industrial award in favour of workmen (respondents No. 4 to 9). This notice was promptly replied by the petitioner and his reply is Annexure B (at pages 15 to 17 of the Paper Book). Thereafter, the Implementation officer issued a corrigendum dated 28.03.2007 taking on record an affidavit filed by the workmen, according to which, the petitioner along with six others is stated to be liable to pay the amount directed to be paid vide industrial award in their favour.

4 It is aggrieved by these above notice and corrigendum issued by the Implementation Officer, the petitioner has filed the present writ petition for directions to respondents No. 1 to 3 not to implement the industrial award in favour of the workmen against him as mentioned in the impugned notice/corrigendum.

5 The industrial award which is sought to be implemented by the workmen (respondents No. 4 to 9) was passed by the Labour Court against the firm M/s Premier Safe Company, Jhandewalan, New Delhi.

6 Mr. Y.P. Bhasin, learned counsel appearing on behalf of the petitioner, has argued that the petitioner never ever had any connection or interest in M/s Premier Safe Company at any point of time. It is submitted on behalf of the petitioner that he was never a partner in the firm M/s Premier Safe Company. According to the petitioner, M/s Premier

Safe Company was comprised of five partners, viz. Smt. Agya Kaur w/o Shri Inder Singh, Shri Kuldeep Singh Bhatia S/o Shri Inder Singh, Shri Bhupinder Singh S/o Shri Inder Singh, Smt. Harbans Kaur w/o Shri Manmohan Singh and Smt. Sudarshan Kaur w/o Shri Jaswant Singh. The father of the petitioner was one of the partners of the firm M/s Premier Safe Company but he retired on 21.04.1973.

7 The petitioner in his reply to the notice filed before the Implementation Officer has placed copy of the Dissolution Deed and also a copy of the Assessment Order to show that he never ever had any interest in the firm M/s Premier Safe Company.

8 Mr. Bhasin, learned counsel appearing on behalf of the petitioner, has taken me through the contents of the Dissolution Deed (a copy of which is at Annexure G at pages 23-24 of the Paper Book) and he has also taken me through the assessment order (a copy of which is at Annexure H at page 25 of the Paper Book) to contend that the petitioner was never a partner or had any interest in the business of M/s Premier Safe Company.

9 Relying on these two documents, Mr. Bhasin has argued that after the firm M/s Premier Safe Company was dissolved on 23.04.1973, it was taken over by Smt. Sudarshan Kaur w/o Shri Jaswant Singh, who did business as sole proprietor for one month in May 1973 and thereafter, another person by name Shri Inder Singh was inducted as a partner in the business along with Smt. Sudarshan Kaur.

10 A perusal of Para 4 of the Dissolution Deed (Annexure G at page 23 of the Paper Book) reveals that Smt. Sudarshan Kaur has taken upon herself all the liabilities of the business run by M/s Premier Safe Company upon its dissolution on 23.04.1973.

11 Out of the six workmen, three of them namely respondents No. 4, 7

& 8 are represented in the matter by their counsel Mr. Sajan K. Singh, Advocate. Nobody has appeared for the three workmen namely respondents No. 5, 6 & 9 despite their service by publication in 'The Statesman' of 28.10.2009 edition.

12 On being repeatedly asked, Mr. Sajan K. Singh, learned counsel appearing on behalf of the respondents No. 4, 7 & 8, could not point out the nexus of the petitioner with the firm M/s Premier Safe Company against whom industrial award in favour of the workmen was passed by the Labour Court. The contention of Mr. Sajan K. Singh, learned counsel appearing on behalf of the respondents No. 4, 7 & 8 is that the Court should apply the principle of 'lifting of Corporate Veil' to ascertain that, in fact, it was the petitioner who had been doing the business of the firm M/s Premier Safe Company.

13 I am sorry I have not been able to persuade myself to agree with the submissions made on behalf of the respondents No. 4, 7 & 8. There is ample evidence on record to show that the petitioner at no point of time had any interest in the business of the firm M/s Premier Safe Company against whom industrial award in favour of the workmen was passed. The firm M/s Premier Safe Company was assessed to income tax for the assessment year 1974-75 on 01.03.1979 and a perusal of the assessment order (Annexure H at page 25 of the Paper Book) shows that the firm M/s Premier Safe Company stood dissolved on 23.04.1973 and its business was being taken by Smt. Sudarshan Kaur thereafter. This assessment order, by no means, can be said to be a fabricated document as it was passed about two decades before the industrial award came in favour of the workmen. Since the workmen have failed to establish the nexus of the petitioner with the firm M/s Premier Safe Company, the petitioner cannot be held liable to implement the industrial award in

favour of the workmen. The workmen (respondents No. 4 to 9) will be entitled to implement the award against the firm M/s Premier Safe Company and its partners as per law.

14 In view of the foregoing, this writ petition is allowed. Respondents No. 1 to 3 are directed not to implement the industrial award dated 15.07.1995 in favour of respondents No. 4 to 9 against the petitioner. This writ petition stands disposed of accordingly leaving the parties to bear their own costs.

DECEMBER 15, 2009
'bsr'

S.N.AGGARWAL, J