

Sayali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2874 OF 2018

Cowtown Infotech Services Pvt. Ltd.,
having its registered address at 412,
Flood-4, 17G, Vardhaman Chamber,
Cawasji Patel Road, Horniman Circle,
Fort, Mumbai 400 001

... Petitioners

Vs.

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
UPASANI
Date: 2026.04.18
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- 1. Seth Industries Private Limited,**
having its registered office at
Sadhana Rayon House, 2nd Floor,
D.N. Road, Fort, Mumbai 400 001
- 2. R.S. Ghodeswar**
- 3. Mumbai Textile Mazdoor Sabha**
- 4. Kamgar Utkarsha Sabha**
- 5. Maharashtra Samarth Kamgar
Sangathana**
- 6. Bajirao Khajan Wadkar**
- 7. Narayan Jivan Deshmukh**
- 8. Prabhunath Ramdhani Yadav**
- 9. Michel D'Souza**
- 10. Vithal Kotian**
- 11. Harun Nawab Pathan**
- 12. Ramashankar S/o. Late Kedarnath
C. Yadav**
- 13. Hansa Datta R. Joshi**
- 14. Ravindra Ramsurendra Pandey**
- 15. Lalta Abhilakh Yadav**

16. Ramachandra Rajaram Yadav
17. Chhabinath Ramgarib Sharma
18. Jeenakram P. Prajapati
19. Phulchand B. Sharma
20. Ramashankar B. Sharma
21. Jiyalal Baljeet Yadav (brother
late Sahadev B. Yadav
22. Jayshree Anjanlekar (Wife)
Late Ashok Arjun
23. Mukesh Harikaran Rajbhar
late Harikaram Rajbhar
24. Padma Balappa Naidu (Wife)
late Balappa Bhugappa Naidu
25. Adya Prasad Singh
26. Daisy Aveline D'Souza
27. Prabhavati Devi (wife)
late Lahor Prasad R. Yadav
28. Malti Kaluram Rajbhar (wife)
late Kaluram Dukharam Rajbhor
29. Aditya Prasad Surajbali Upadhyay
30. Ramashankar Ramsawar Singh
31. Baburam Ram Surat
32. Jokhan Sukharaj
33. Gulab S/o Pujan
34. Mithaee s/o Ganga Rajbhor
35. Shivraj Prasad s/o. Ramdas Varma
36. Ramsiromani s/o. Fatay Tiwari
37. Ramawadh s/o Ramadev Yadav
Late Ramadev R. Yadav
38. Inraj s/o. Modha Yadav

39. Ramsingar s/o. Shivnath Sharma
 40. Balwant s/o. Ramdular Rajbhar
 41. Shiv Shankar s/o. Dinanath Jaiswar
late Dinanath Jaiswar
 42. Vihagar S. Harijan
 43. Rangaswami G. Gowda
 44. Shreeniwas S/o. Subbayya
 45. Nusarat Hussain Mulani (wife)
late Hussain Mohd. Mulani
 46. Cherian Assariyathy John
 47. John Koshy
 48. Molly John Kurien (wife)
late A.J. Qurian
 49. Varghese Verkey
- ... Respondents

Mr. Atharva A. Dandekar with Mr. Tejas Gupta for the petitioners.

Mr. Mayuresh Modgi for respondent Nos. 6 to 8.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 16, 2026.

PRONOUNCED ON : APRIL 18, 2026

JUDGMENT:

1. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner calls in question the legality and correctness of the judgment and order dated 16 August 2017 passed by the Industrial Court, Thane in Complaint (ULP) No. 19 of 2007.

2. The factual matrix giving rise to the present petition, in brief, is that the original complaint came to be instituted in January 2007 by respondent Nos. 6 to 11 along with five other employees of respondent No. 1. The grievance raised therein pertained to the discontinuation of manufacturing activities by respondent No. 1 as far back as in the year 1986, as also to a tripartite settlement dated 1 November 2006 entered into between the petitioner, respondent No. 1, and the employees' unions. According to the petitioner, the complaint is *ex facie* untenable in law; firstly, on account of the inordinate delay in seeking to challenge an event of the year 1986 after a lapse of more than two decades, and secondly, on the settled legal position that a tripartite settlement cannot ordinarily be subjected to challenge by way of a complaint alleging unfair labour practice.

3. By the impugned order dated 16 August 2017, the Industrial Court allowed an application preferred by respondent Nos. 6 to 49 in January 2017 seeking their impleadment as complainants in the pending complaint. This application was filed nearly 31 years after the discontinuation of the manufacturing activities and about 10 years after the institution of the complaint itself. It is significant to note that the said application did not disclose any cogent or satisfactory explanation for such gross and unexplained delay. Being aggrieved thereby, the petitioner has approached this Court.

4. Learned counsel for the petitioner, Mr. Atharva Dandekar, contended that the Industrial Court failed to appreciate that the impleadment application was founded merely on bald assertions that the applicants were employees of respondent No. 1 and that

they were interested in contesting the complaint on account of alleged non-payment of dues. It was urged that apart from these general and unsubstantiated averments, no material particulars were furnished to justify their impleadment at such a belated stage. The application, according to the petitioner, lacked necessary details which would warrant their addition as parties to the proceedings. It was further submitted that the Industrial Court, in paragraph 11 of the impugned order, has itself recorded that the impleadment application was completely silent as regards the period of delay in approaching the Court. Despite such a finding, the Court failed to draw the necessary legal consequence that the claim was hit by delay and laches and was also barred by limitation. It was emphasized that the cause of action, if any, arose in April 1986 when the manufacturing activities were discontinued, whereas the respondents sought to be impleaded only in January 2017, after an inordinate lapse of nearly 31 years.

5. The learned counsel further submitted that even the original complaint was filed in January 2007, and the present impleadment application came to be filed ten years thereafter, without any explanation whatsoever for such delay. It was contended that this unexplained delay, by itself, constituted a sufficient ground for rejection of the application. It was also urged that the applicants had failed to state that their alleged dues were not covered by the settlements entered into between the petitioner and the representative unions of the employees of respondent No. 1. It was additionally submitted that the Industrial Court failed to consider that the claims of a majority of the employees had already

been settled and discharged in terms of the settlements arrived at between the petitioner and the recognized unions. In these circumstances, it was contended that the impugned order suffers from serious infirmities and warrants interference by this Court.

6. Per contra, learned counsel for respondent Nos. 6 to 8, Mr. Mayuresh Modgi, submitted that the applicants are either employees or legal heirs of the employees of respondent No. 1 and are entitled to receive their lawful dues. It was contended that the complaint itself involves issues relating to computation and payment of such dues, and any adjudication therein would necessarily affect all workmen who were in employment at the relevant time. Hence, their presence is essential for complete and effective adjudication of the dispute. It was further submitted that the respondents have asserted that they were in employment with the respondent company at the relevant time and, therefore, they are necessary and proper parties to the complaint. Reliance was placed on the documents produced on record to contend that, prima facie, their status as employees is borne out. On this basis, it was urged that the impugned order does not suffer from any perversity or illegality so as to warrant interference under the writ jurisdiction of this Court.

REASONS AND ANALYSIS:

7. Having heard the learned counsel appearing for all the parties and after carefully going through the material placed on record, this Court is of the opinion that the impugned order cannot be sustained in the eyes of law.

8. The petitioner has contended that the complaint was not maintainable. The complaint sought to challenge an event of 1986 by filing proceedings in 2007. Further, it is pointed out that a tripartite settlement, which is entered into between employer and representative unions, cannot ordinarily be made subject matter of a complaint of unfair labour practice. The Industrial Court was therefore required to examine these aspects. It was expected to consider whether such a complaint could survive in law and whether additional parties could be brought in to such a complaint at a much later stage. However, the reasoning of the Court below shows that it proceeded on a assumption that since the applicants claim to be employees or legal heirs, they may have interest in the outcome. Mere interest in outcome does not give an automatic right to be impleaded, particularly when the proceedings are old and when delay is very large and unexplained.

9. The record shows that the impleadment application was filed in January 2017. This is nearly 31 years after the alleged discontinuation of manufacturing activity and about 10 years after filing of the complaint. This kind of delay directly affects the maintainability of the application. The Industrial Court itself has recorded in paragraph 11 of the impugned order that the applicants have not explained the period of delay. Once such a finding was recorded, the Court was required to proceed further and consider the effect of such delay. Normally, such unexplained delay attracts the principles of delay and laches. It may attract bar of limitation depending upon nature of claim. However, the Industrial Court stopped at noticing the defect and did not carry

the reasoning to its logical end. The order, therefore, cannot be sustained.

10. The submission of the learned counsel for the petitioner that the impleadment application was based on general statements also deserves acceptance. The applicants have only stated that they were employees or that they have not received their dues. These statements do not contain necessary details. There is no statement showing who was employed, during what period, under what conditions, and what exact amount is claimed by each of them. There is also no explanation as to why these claims were not raised earlier. When the Court is dealing with an application filed after such a long delay, it expects pleadings. Absence of such particulars weakens the case of the applicants. It affects the foundation of the request for impleadment.

11. Further, it is also important to note that the respondents have not been able to show that their alleged dues are outside the scope of settlements already entered into between the petitioner and the representative unions. The petitioner has specifically stated that majority of the employees have already received their dues under such settlements. They have not placed any material to show that their claims are independent or that they were excluded from such settlements. In absence of such material, the presumption would be that the settlements have taken care of the claims of employees generally. A vague assertion that they are still unpaid is not sufficient to displace that position.

12. The delay of ten years even after filing of the complaint assumes importance. The complaint was filed in January 2007. The impleadment application came in January 2017. This shows that even after the complaint was pending, the applicants did not take steps to join the proceedings for a long period. When a person remains inactive for long time, the Court must examine the reasons carefully. In the present case, no reason is given. This creates a presumption against the applicants. In such circumstances, the normal rule would be to reject the application.

13. In view of the above discussion, this Court holds that the impugned order dated 16 August 2017 is not sustainable. For all these reasons, the order cannot stand. The writ petition is required to be allowed and the impugned order deserves to be set aside.

14. In the result, the following order is passed:

- (i) The writ petition is allowed;
- (ii) The impugned judgment and order dated 16 August 2017 passed by the Industrial Court, Thane in Complaint (ULP) No. 19 of 2007, allowing the application for impleadment of respondent Nos. 6 to 49, is quashed and set aside;
- (iii) The application for impleadment filed by respondent Nos. 6 to 49 stands rejected;
- (iv) The proceedings in Complaint (ULP) No. 19 of 2007 shall now continue before the Industrial Court, Thane only with the original parties, in accordance with law;

(v) Rule is made absolute in the above terms. There shall be no order as to costs.

15. Since the Apex Court has already expedited the proceedings, the complaint shall be decided by the Industrial Court within six months from today.

(AMIT BORKAR, J.)