

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5567 OF 2015

1. The Administrator,
Krushi Utpana Bazar Samiti
Aurad Shahajani, Tal.Nilanga,
Dist.Latur,

2. The Secretary,
Krushi Utpana Bazar Samiti
Aurad Shahajani, Tal.Nilanga,
Dist.Latur,

PETITIONERS

VERSUS

1. Pandurang S/o Naryanrao Naikwade,
Age-68 years, Occu-Nil,
R/o.Market Yard, Nilanga,
Tq. Nilanga, Dist.Latur,

2. The Tahsildar,
Nilanga, Tq.Nilanga, Dist.Latur

RESPONDENTS

Mr.R.D.Biradar, Advocate for the petitioners.

Mr.S.Y.Patil h/f Mr.B.N.Patil, Advocate for respondent No.1.

Mr.S.M.Jadhav, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 12/08/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. After hearing the learned Advocates for some time on

17/06/2015, I had passed the following order :-

“2. Learned Advocate for the petitioners submits that an amount of Rs.3,00,000/- has been deposited with the Tahsildar, Nilanga.

3. The petitioners shall comply with the directions of this Court issued by order dated 2.6.2015, by serving respondent No.1 through private service in addition to the Court service. The petitioners are at liberty to inform Tahsildar, Nilanga that amount of Rs.3,00,000/- has been deposited.”

3. Upon hearing the parties again on 29/06/2015, I had passed an order observing in paragraph Nos. 5 to 9 as under :-

“5 Mr.Biradar, learned Advocate for the Petitioners, submits that the Petitioners are willing to deposit a further amount of Rs.2.50 lacs in addition to Rs.50,000/- as well as Rs.3,00,000/- that have been already deposited with Respondent No.2.

6 In the light of the above, the impugned order/ proclamation dated 30.04.2015 issued by the Tahasildar and the communication dated 07.02.2015 issued by the Tahasildar to the Bank Manager, District Central Cooperative Bank Limited, Branch Aurad Shahajani, Taluka Nilanga, District Latur, are stayed till the next date of hearing in this petition, subject to the Petitioners depositing an amount of Rs.2,50,000/- (Rupees Two Lacs Fifty Thousand) with Respondent No.2/ Tahasildar on or before 20.07.2015.

7 *Respondent No.2 shall not disburse the amount of Rs.3.50 lacs deposited with him and the amount of Rs.2.50 lacs which is to be deposited, to Respondent No.1, without leave from this Court.*

8 *Needless to state, if the said amount is not deposited with Respondent No.2 as directed above, Respondent No.2 shall thereafter, be at liberty to proceed in accordance with law.*

9 *The learned AGP shall file an affidavit of Respondent No.2 to indicate the calculation of the amounts mentioned in the impugned proclamation dated 30.04.2015 as well as the communication dated 02.02.2015.”*

4. I have heard the learned Advocates and the learned A.G.P. for quite some time. It is not in dispute that the impugned judgment and order dated 03/03/2014 delivered by the Labour Court in Appl. (IDA) No.16/2012 is an ex-parte judgment. It is also not in dispute that despite the appearance having been entered by the petitioners below Exh.C-3, no written statement was filed before the Labour Court. No evidence was adduced and none appeared for the petitioners for advancing final submissions.

5. Respondent No.2 herein has filed an affidavit in reply dated 13/07/2015. The details of the amounts to be recovered from the

petitioners so as to be paid to respondent No.1 / original applicant are set out in paragraph Nos. 13 and 14 of the affidavit in reply.

6. Issue involved is of recovery of money due from an employer u/s 33(C)(2) of the I.D.Act, 1947. On account of the negligence and laxity shown by the petitioners, the impugned judgment was delivered ex-parte. Nevertheless, since the issue is as regards payments of money, it would be in the interest of justice that the proceedings before the Labour Court are decided after hearing the respective sides so as to avoid any excessive payment being made to the claimants. Respondent No.1 has already withdrawn Rs.3.5 lac towards gratuity since the claim for gratuity has been allowed by the Controlling Authority under Payment of Gratuity Act, 1972.

7. In the light of the above, this petition is partly allowed. The impugned judgment dated 03/03/2014, delivered by the Labour Court in Appl. (IDA) No.16/2012 is quashed and set aside only to enable the petitioners to participate in the said proceedings and contest the claim of respondent No.1 on its merits.

8. While doing so, I am issuing the following directions :-

- a. The petitioners shall pay the actual expenses incurred by respondent No.2 herein namely the Tahsildar, Nilanga, Tal. Nilanga, Dist. Latur with regard to the publication of the public notice in the newspaper on 30/04/2015, copy of which is at page No.18 of the petition paper book.
- b. These costs shall be intimated in writing by respondent No.2 to the petitioners within 2 (two) weeks from today and after receiving the said communication, the petitioners shall pay the said amount within 2 (two) weeks thereafter.
- c. The petitioners shall deposit costs of Rs.10,000/- (Rs. Ten thousand only) before the Labour Court, Latur in Appl.(IDA) No.16/2012 within 4 (four) weeks from today and the said amount shall be withdrawn by respondent No.1/original applicant without conditions.
- d. The litigating sides shall appear before the Labour Court, Latur in Appl.(IDA) NO.16/2012, which is remitted back to the Labour Court for fresh adjudication, on 29/08/2015.
- e. Formal notices need not be issued.
- f. The petitioners shall file its written statement on or before 05/09/2015.
- g. The Labour Court shall recast the issues considering the contentions of the petitioners, on or before 16/09/2015.
- h. After recasting of issues, the litigating sides are permitted to adduce evidence in addition to the oral and documentary evidence already on record.
- i. The petitioners are precluded from seeking adjournments on trivial or unreasonable grounds.
- j. The Labour Court shall decide Appl. (IDA) NO.16/2012 after considering the totality of the oral and documentary evidence

already on record and additionally recorded, on its own merits and as expeditiously as possible and preferably on or before 30/01/2016.

9. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)