

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9718 OF 2014

Sushilkumar Kawalsingh Jain,
Age 68 years, Occ. Business,
i.e. Prop. of Vivek Automobiles,
Petrol Pump, Wadigodri,
Tq. Ambad, Dist. Jalna.

..Petitioner

Versus

Shivaji Karbhari Talekar,
Age 52 years, Occ. Nil,
R/o Dhakalgaon, Tq. Ambad,
District Jalna.

..Respondent

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Advocate for Petitioner : Shri Karkare S.P. h/f Shri Joshi P.K.
Advocate for Respondents : Shri Shinde P.M. h/f Shri Kulkarni V.D.
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CORAM : RAVINDRA V. GHUGE, J.

Dated: August 19, 2015

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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. While issuing notice on 18.11.2014, I had recorded the submissions of the petitioner as under:-

(a) The petitioner was before this Court in WP No.9787/2013, challenging the orders passed by the Labour Court dated 16/11/2013, 19/11/2013 and 26/11/2013 in Application (IDA) No.02/2013.

(b) By oral judgment dated 25/07/2014 delivered by this Court, the writ petition was allowed and the impugned 3 orders, mentioned above, were quashed and set aside subject to the petitioner paying costs of Rs.7,500/- which were to be deposited before the Labour Court within a period of 3 (three) weeks from the date of the order.

(c) After the said order was signed, he applied for *Hamdast* and the same was delivered to him on 17/08/2014.

(d) The petitioner made an application before the Labour Court on 22/08/2014, expressing his desire to deposit the said amount and requesting for the matter to be taken on Board.

(e) The said application dated 22/08/2014 was granted by the Labour Court and the matter was taken on Board.

(f) On the same date 22/08/2014, the petitioner filed a purshis for depositing the costs of Rs.7,500/-. The learned Court directed the Senior Clerk to accept the amount by its order passed on the same day on the said purshis Exh. C-10.

(g) The petitioner has placed on record a copy of the receipt dated 22/08/2014 issued by the Office of the Labour Court, Jalna.

(h) When the matter was posted on 25/08/2014 for cross examination, which permission was granted to the petitioner by this Court, the applicant before the Labour Court (respondent herein), filed a purshis contending therein that the petitioner ought not to be granted the liberty to cross examine the applicant.

(i) By the impugned order dated 06/11/2014, the Labour Court Jalna has in fact passed an order on the purshis Exh.21, despite the fact that the applicant declined to file an application for seeking any orders, thereby restricting the petitioner from cross-examining the applicant.

5. Learned Advocate for the respondent submits that the petitioner has intentionally and deliberately violated the order passed by this Court, dated 25.7.2014 only to frustrate the recovery proceedings initiated by the respondent. The petitioner is an employer and has all the resources to deposit an amount of Rs.7,500/- within three weeks as was ordered by this Court. Only with the intention of delaying the matter, the petitioner has avoided depositing the said amount which, therefore, compelled the Labour Court to proceed with the matter by disallowing the petitioner to participate in the said proceedings.

6. Having considered the submissions of the learned Advocates of the respective sides, I am of the view that the ends of justice would be met by giving the petitioner a last opportunity to cross-examine the respondent within a time frame and further penalise the petitioner for its conduct in the said proceedings.

7. In the light of the above, this petition is partly allowed and the impugned order dated 6.9.2014 in Application (IDA) No. 2 of 2013 is quashed and set aside. I, therefore, issue the following directions:-

(A) The petitioner shall deposit an amount of Rs.15,000/- (Rs.

Fifteen Thousand only/-) which includes the amount of Rs.7,500/- (Rs. Seven Thousand Five Hundred only/-) ordered by this Court on 25.7.2014, on/or before 5.9.2015 before the Labour Court.

(B) The petitioner shall not pray for any extension of time.

(C) If the petitioner fails to deposit the amount of Rs.15,000/- on/or before 5.9.2015 before the Labour Court, for any reason whatsoever, the order of the Labour Court dated 6.9.2014 shall stand restored and the Labour Court shall proceed to decide Application (IDA) No. 2 of 2013 without the participation of the petitioner.

(D) If the above directions of depositing amount are complied with by the petitioner, the respondent shall withdraw the said amount without any conditions.

(E) After the above directions are complied with, the Labour Court shall permit the petitioner to cross-examine the applicant and shall decide application (IDA) No.2 of 2013 as expeditiously as possible and preferably on/or before 30.1.2016.

(F) The litigating sides, especially the petitioner are precluded from seeking unnecessary adjournments on trivial grounds.

8. Rule is made partly absolute in above terms.

(RAVINDRA V. GHUGE, J.)

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akl/d