

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO.576 & 776 OF 2015
IN
WRIT PETITION NO.486 OF 2015

M/S. FOMENTO RESORTS AND HOTELS LTD.,
REPRESENTED BY ITS MANAGER
SHRI K. SAINATH SHETTY AND ANR.APPLICANTS

V/S

WORKMEN, RER. BY M/S. CIDADE
GOA HOTEL EMPLOYEES UNION,
THR. ITS SECRETARY
SHRI. JOAO REGO AND ANR.RESPONDENTS

Mr. J.E. Coelho Pereira, Senior Advocate with Ms. Daksha Lotlikar,
Advocate for the Applicants.
Mr. Ryan Menezes, Advocate for Respondent No.1.

CORAM : F.M. REIS, J.

DATE : 18/12/2015

P.C.:

Heard Mr. J.E. Coelho Pereira, the learned Senior Counsel
appearing for the applicants and Mr. R. Menezes, the learned Counsel
appearing for the respondent no.1.

2. By interim order dated 16/07/2015, the operation of the impugned
award dated 29/01/2015 was stayed subject to the petitioners depositing
in this Court the total amount as awarded within four weeks.

3. Mr. J.E. Coelho Pereira, the learned Senior Counsel appearing for the applicants submits that as on the date of the said order dated 16/07/2015 up to July 2015, the amount as awarded in the impugned award works out to a sum of Rs.1,41,94,952/-. The learned Senior Counsel further points out that the petitioners have already deposited a sum of Rs.44,38,752/- in this Court and the above application has been filed to permit the petitioners to furnish Bank Guarantee in lieu of depositing the balance amount as per calculations of the petitioners. The learned Senior Counsel further points out that this deficit amount reflects to be the amount which the petitioners had voluntarily paid for the period from 1/02/2008 till 18/10/2012.

4. The learned Senior Counsel further points out that, as such, the order passed by this Court dated 16/07/2015 be accordingly modified and the petitioners be permitted to furnish Bank Guarantee to the satisfaction of the Registrar (Judicial) of this Court. The learned Senior Counsel further undertakes to deposit the future amounts payable to the concerned workman in terms of the impugned award every three months and undertakes to ensure the past amounts are deposited within four weeks from today.

5. On the other hand, Mr. R. Menezes, the learned Counsel appearing

for the respondent seriously disputes that any sum of Rs.97.00 lakhs and odd only remain to be deposited by the petitioners in terms of the impugned award as on July, 2015. According to Mr. R. Menezes, the learned Counsel appearing for the respondent no.1, the total amount payable works out to Rs.2,60,23,540/- as on August 2015. The learned Counsel has further pointed out that the petitioners are unnecessarily including the amount of Rs.1,125/- awarded by the impugned award at an average with the amount the petitioners have voluntarily paid to the respondent which according to the respondent cannot be set off from the amounts directed to be paid to the respondent. The learned Counsel, as such, pointed out that the petitioners be accordingly directed to deposit the total amount as claimed by the respondent and proceed to deposit the amount accordingly until the disposal of the above Writ Petition.

6. I have considered the submissions of the learned Counsel and have also gone through the records. At this stage, the question of going into the contentions raised by the parties on merits would not at all be justified. The contention of Mr. Menezes, the learned Counsel appearing for the respondent that the amount of Rs.1,125/- cannot be included in the amount directed to be paid in terms of the impugned award is a matter which would have to be examined by this Court whilst deciding the Writ Petition on merits. But however, as far as the contention of Mr.

J.E. Coelho Pereira, the learned Senior Counsel for the petitioners is concerned, taking note of the fact that the amount payable in terms of the impugned award now works out to a sum of Rs.97 lakhs and odd as in August, 2015 considering that a sum of Rs.44,38,752/- has already been deposited in this Court, I find that as far as the balance amount is considered to a tune of Rs.62,72,996/-, the petitioners can be given liberty to furnish a Bank Guarantee of a nationalized bank to the satisfaction of the Registrar (Judicial) of this Court, which Bank Guarantee shall be kept alive until the disposal of the above Writ Petition.

7. As far as the balance claim of the respondent is concerned, which according to the respondent is in terms of the impugned award, the petitioners shall furnish an undertaking of the authorised officer of the petitioners to the effect that any amounts payable to the respondent at the time of the final disposal of the above Writ Petition shall be paid within one month from the date of such order. Undertaking shall be furnished to that effect supported by appropriate resolution/authorisation from the Applicant/Company to the satisfaction of the Registrar (Judicial) of this Court. The petitioners are also directed to deposit in this Court the amounts payable as per the impugned award from July 2015 until disposal of the above Writ Petition every three months from the date of

such amounts. The Registry shall invest the amount so deposited in a nationalized bank initially for a period of one year and the same shall be refunded from time to time until the disposal of the Writ Petition. Needless to say, the respondent if so advised may file an application for withdrawal of the amount so deposited, which shall be examined by this Court on its own merits after hearing the petitioners in accordance with law. Both the applications stand disposed of in the above terms.

F.M. REIS, J.

NH/-