

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2468 OF 2015

Vadgaon Sheti Utpanna Bazar
Samiti

.....Petitioner

: V/S :

Smt. Laxmibai Yashwant
More and Ors.

.....Respondents

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Mr. M.S. Topkar, Advocate for the petitioner.

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Coram :- Smt. R.P. SondurBaldota, J.

10th JUNE, 2015.

P.C. :-

1). This petition challenges the three orders passed by the Labour Commissioner under the Employees Compensation Act. The three orders are dated 23rd September, 2011, 24th September, 2012 and 31st August, 2013. The first order condones the delay of 6 years and 4 months in filing the application in seeking restoration of the application for compensation filed by the respondents. The second order restores the application for compensation and the third order grants leave to the respondents to amend the application. As regards the first two orders,

since the petitioner did not even contest the applications by remaining present in the Court, it cannot be permitted to challenge the discretion exercised by the Commissioner in condoning the delay and restoring the application.

2). Mr. Topkar, the learned Advocate appearing for the petitioner, however, submits that the petitioner would be affected by the observation of the Commissioner while condoning the delay, that the respondents will not be entitled to claim interest for the duration of the delay i.e. 6 years and 4 months. According to him, in the facts and circumstances of the case, the respondents are not entitled to any compensation whatsoever. There can be no merit in the application. The observation by itself can have no adverse impact on the argument to be advanced by the petitioner that the respondents are not entitled to any compensation at all.

3). As regards the order granting amendment of the application, Mr. Topkar submits that the Commissioner ought not to have allowed the amendment, 22 years after filing of the application. He also points out that the respondents have already amended the application once and that they cannot be permitted to improve upon their case from time to time. Perusal of the amendment allowed shows that, the averments contained therein relate to the working of the deceased and the number

of hours put in by him on certain dates. Since the petitioner will be getting an opportunity not only to cross-examine the respondents but also to lead its independent evidence, there cannot be any prejudice to the petitioners with the amendments sought to the application. Hence, I am not inclined to interfere with the impugned orders. The petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)