

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1300 OF 2014
IN
WRIT PETITION NO.10075 OF 2012

Raju Vithal Kasbe	...	Applicant
In the matter between		
Kalwa Consumer Co-operative Society Limited	...	Petitioner
Vs.		
Raju Vithal Kasbe	...	Respondent

Mr. Ravindra Nair for Applicant.
Mr. Rahul Nerlekar for Respondent.

CORAM : R. G. KETKAR, J.
DATE : FEBRUARY 6, 2015

ORDER:

Heard Mr. Nair, learned Counsel for applicant-original respondent in the Petition and Mr. Nerlekar, learned Counsel for opponent-original petitioner in the Petition at length. Rule. Mr. Nerlekar waives service for opponent. By consent of the parties, rule is made returnable forthwith and the Application is taken up for final hearing.

2. By this Application, the applicant – Raju Vithal Kasbe has prayed for directing the opponent herein to pay his last drawn wages of Rs.3,597/- every month from the date of the Petition and permit the applicant to withdraw amount of Rs.1,37,631/- on such terms and conditions as this Court deems fit and proper, which is 50% of the amount deposited by the opponent in pursuance of the order dated 10.07.2013 passed by this Court while admitting the Petition.

3. Mr. Nair, upon taking instructions from the applicant who is present in the Court, states that within 4 weeks from today, the applicant

will furnish Bank Guarantee of a Nationalised Bank, which will include amount of Rs.1,37,631/- along with accrued interest upto 31.12.2014 under due intimation to the learned Counsel for the opponent. He further assures that the Bank Guarantee shall be kept alive during the pendency of this Petition.

4. Mr. Nair, upon taking instructions from the applicant who is present in the Court, states that applicant's wife Ms Shakuntala Raju Kasbe will report on duty of the opponent on the post of 'Packer' on 16.02.2015 at 11.00 a.m. Mr. Nerlekar submits that in the past, assurance was given by the applicant that he will make application for appointment of his wife. However, no such application was made. He submitted that even if the wife of the applicant is ready and willing to report for duty on the post of 'Packer' on 16.02.2015 at 11.00 a.m. or soon thereafter, opponent has no objection.

5. In view of the controversy, I deem it appropriate to direct the Labour Court, Thane to depute the Investigating Officer attached to the Labour Court to the premises of the opponent-society on 16.02.2015 at 11.00 a.m. so as to ensure that applicant's wife Ms Shakuntala Raju Kasbe reports on duty on that date and time for the post of 'Packer'. In view thereof, Civil Application is disposed in the following terms:

- a. The applicant is permitted to withdraw the amount of Rs.1,37,631/- together with accrued interest upto 31.12.2014 subject to furnishing Bank Guarantee of a Nationalised Bank within 4 weeks from today under due intimation to the learned Counsel for the opponent. Bank Guarantee shall be kept alive during the pendency of this Petition;
- b. The applicant's wife Ms Shakuntala Raju Kasbe shall be appointed on regular basis on the post of 'Packer' and she will report on duty on 16.02.2015 at 11.00 a.m.;

c. The Labour Court, Thane will depute Investigating Officer attached to the Court to visit the premises of opponent on 16.02.2015 at 11.00 a.m. so as to ensure that the wife of the applicant joins duty and the opponent permits her to resume duties on that date and time;

d. The Investigating Officer is requested to submit the compliance report within 2 weeks from 16.02.2015.

6. Rule is made absolute in the aforesaid terms. Costs in cause.

(R. G. KETKAR, J.)

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