

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL WRIT PETITION NO. 2935 OF 2012

Mr. Laxman Pujari.

... Petitioner.

V/s.

Maharashtra Kamgar Ekjut Union
Dipali Smruti and Anr.

... Respondents.

Mr. Tariq Baig i/b. Ms. Seema Singh for the Petitioner.

Mr. H. Kumar Vaidyanathan for Respondent 1.

Mr. Nimay Dave a/w. Rahul Hingmire i/b. M/s. Hariani & Co. for
Respondent No.2.

Mr. P.N. Anaokar a/w. Rahul Oak for Respondent Nos. 3 to 5.

Ms. Vaishali Nimbalkar, AGP for Respondent Nos. 7 & 8.

CORAM : N.M. JAMDAR, J.

DATE : 12 OCTOBER, 2015.

P.C. :-

On 2 September 2015, after hearing all the parties, a detailed order came to be passed as under :-

“ By this petition, the Petitioner challenges the order passed by the Industrial Court, Mumbai, directing the Petitioner to deposit an amount of Rs.16,55,800/- towards wages of the employees within 30 days.

2 The petition was filed on 20 March 2012 and thereafter no attempts have been made to seek any interim relief. Whenever the matter has appeared on board, time is sought and on the last date an adjournment was granted by way of a last chance.

3 Learned counsel for the Petitioner states that the Petitioner being a sub-contractor is not liable and the principal employers are liable to pay the workmen. The Petitioner has made respondent Nos.2, 3, 4 and 5 as party respondents as principal employers. As regard Respondent No.2, originally in the complaint, M/s.Wadhawan Heights (HATJS) Ltd. is a party respondent which, in this petition, the Petitioners have changed it into Mercury Realty Private Limited. Learned counsel for the Petitioner is unable to explain as to how this amendment to change of name has come about. Learned counsel for the Petitioners submits that the principal employers are not present and notice be issued to them.

4 Learned counsel for the Respondent No.1 workmen points out that from 2012 the workmen are waiting for the benefits of the impugned order. As stated earlier, the Petitioners have made no efforts to seek any interim relief, therefore, further indulgence to the Petitioner will be granted if the Petitioner deposits the amount in this Court or before the Industrial Court.

5 If the Petitioner deposits the amount as directed, the Court may consider issuing notices to the respondents. However, it is made clear that, since the Petitioner is invoking writ jurisdiction and the order challenged is an interim order, the Court may not extend any indulgence if the Petitioner fails to deposit any amount.

6 Accordingly, place the matter for directions on 12 October 2015.”

2. The learned Counsel for the Petitioner states that the Petitioner will at the most deposit an amount of Rs.2,00,000/-. Considering the amount involved that is of Rs.16,55,800/- that too which is not paid to the workmen from February 2012, the deposit of Rs.2,00,000/- cannot be accepted. As stated earlier, the Petitioner has made no efforts to get any interim order and has just filed the Petition in March 2012. If the Petitioner was anxious that the Petitioner cannot pay the amount and it is the principal employer who should directed to pay the amount, efforts ought to have made. For the dispute between the Petitioner and the Respondents, in the facts of the present case, the workman cannot be made to suffer.

3. In the circumstances, no interference in the equity jurisdiction of this Court is possible. After the Petitioner has complied with the order, the Petitioner can always seek appropriate relief from the Labour Court for directions to the principal employer.

4. However, impugned order being an interim order, this order will not preclude the Industrial Court from passing such suitable order, in the fact and circumstances of the case, keeping in mind that the interest of the workmen should not suffer for the dispute between parties.

5. The Writ Petition is rejected.

(N.M. JAMDAR, J.)