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

CIVIL WRIT PETITION NO. 8940 OF 2014

Mr. Rajaratnam S. Methrin and Anr. ... Petitioners.

V/s.

M/s. Pure Drinks Ltd. and Ors. ... Respondents.

Mr. Suresh Warke a/w. Ms. Indrayani Mandar Koparkar for the Petitioners.

Mr. R.S. Pai a/w. Saurabh Chitnis i/b. M/s. Deepak Chitnis – Chiprikar & Co. for Respondents 1 to 4.

CORAM : N.M. JAMDAR, J.

DATE : 29 SEPTEMBER, 2015.

P.C. :-

By this Petition the Petitioners challenge the order passed by the Labour Court, Mumbai dated 26 November 2012, rejecting the Application filed by the Petitioners under Section 33(c)(2) of the Industrial Disputes Act, 1947.

2. The Petitioners by this Application sought certain monetary reliefs, which according to the Petitioners, they were entitled to. According to the Petitioners, earlier some amount which was given to them by the Respondents was pursuant to a

settlement which settlement was arrived at by coercion and they were not bound by it. The Labour Court found that in view of the settlement, the Petitioners were not entitled to the relief as claimed, considering the jurisdiction of the Labour Court under Section 33(c)(2) of the Industrial Disputes Act.

3. The learned Counsel for the Petitioners submitted that the Division Bench of this Court by order dated 28 September 2007 in Review Petition No. 48 of 2007 in Writ Petition No. 573 of 2007 has clarified that the rights of the present Petitioners to approach an appropriate forum is kept open. He submitted that the Division Bench had restricted observations in the earlier orders passed by it in the Writ Petition, to only those who were party to it, and claim of other workmen such as the present Petitioners, was kept open. According to the learned Counsel for the Petitioners, the Labour Court failed to notice the observations of the Division Bench.

4. However, what the Division Bench has granted is at the most liberty to approach the Appropriate Forum. Since the Petitioners seek to contend that the settlement was obtained by coercion, the Labour Court exercising jurisdiction under Section 33(c)(2) of the Act cannot be construed as an appropriate forum. Therefore, the view taken by the Labour Court that relief claimed by the Petitioners cannot be granted by it, is correct.

5. It however needs to be noted that if the Labour Court could not scrutinize the legality of the settlement, the same will work both ways i.e. it cannot give declaration that the settlement is valid, neither it can declare it to be invalid. It can only proceed on the basis that as on date the settlement exists. Therefore, if the Petitioners seek to challenge the legality of the settlement, if permissible in law, they will have to approach an appropriate forum, and not under Section 33(c)(2) of the Industrial Disputes Act. If they approach an appropriate forum, the same challenge will be no doubt considered on its own merits and if they do so, all contentions of both the Petitioners and Respondents are kept open.

6. In view of the above, it is not necessary to interfere with the impugned order. The Writ Petition is disposed off accordingly.

(N.M. JAMDAR, J.)

C E R T I F I C A T E

Certified to be true and correct copy
of the original signed Order.