

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6051 OF 2001

Trilok Singh Varma
having his address as R/No.16/17,
Asalphe Village, Ghatkopar (W)
Mumbai-400 084.

....Petitioner

: V/S :

1). M/s. Ambassador Hotel Sky
Chief Branch/Unit of Narang International
Hotels Pvt. Ltd.
75, Nehru Road, Vile Parle (E),
International Air Port Road,
Sahar, Mumbai-400 099.

2). The Presiding Officer,
8th Labour Court, Arun Chambers
6th Floor, Tardeo, Mumbai-400 084.

3). The Member, Industrial Court,
Mumbai

.....Respondents

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Mr. Suresh Pakale, Advocate for the petitioner.

Mr. R.S. Pai a/w. Mr. Atman Mehta and Hemant Telkar i/by. Haresh
Mehta & Co., Advocate for the respondents.

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

16th April, 2015.

P.C. :-

1). This petition by the employee is to challenge the judgments and order dated 6th January, 1997 and 20th March, 2001 passed by the Labour Court, Mumbai and the Industrial Court, Mumbai respectively. The Labour Court, by its order dated 6th January, 1997 dismissed the complaint of the petitioner filed under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("MRTU & PULP Act" for short). The Industrial Court, by its judgment and order has confirmed the order of the Labour Court. The Courts below have considered various issues arising between the parties including the question of jurisdiction on the ground that the petitioner is not a "workman" as defined under the MRTU & PULP Act and of its maintainability. The petition, however, can be disposed off on the basis of the question of its maintainability alone, which goes to the root of the matter and which is irrespective of the status of the petitioner as a "workman".

2). The respondent to the complaint filed by the petitioner under Section 28 Schedule-III, Items-(b), (c) and (f) of the MRTU & PULP Act is "M/s. Ambassador's Sky Chef International Airport". In its written statement at paras-1(a), the respondent has specifically stated that, no company incorporated in such name ever existed or is existing at

International Airport Approach Road, Sahar, Bombay-400 099. Consequently, there is no employer by that name. The respondents claim that, a Company by name M/s. Narangs International Hotels Pvt. Ltd” is situate at International Airport Approach Road, Sahar, Bombay-400 099 and was the employer of the petitioner. Perusal of the letter of appointment of the petitioner, as also the letter of his termination from service confirms this claim. The letter of appointment has been signed by the Manager, Personnel and Industrial Relations of Narang Motels Pvt. Ltd and the letter of termination by Narangs International Hotels Pvt. Ltd (Proprietors Ambassador Sky Chef). This would mean that the petitioner was well aware of the identity of its employer as Narangs International Hotels Pvt. Ltd which was carrying the business in the specific name of Ambassador Sky Chef. Apart from this knowledge, attention of the petitioner was drawn to the correct name of the employer by mentioning the name in the written statement but the petitioner had not taken any steps whatsoever in correcting the cause-title of the complaint.

3). The Labour Court at para-10 of its order, notes that in the written statement, time and again repeatedly the respondent contended that the present respondent is not a legal entity nor a Company nor the employer of the petitioner and as such complaint against it was not

maintainable. However, the petitioner did not take cognizance of this contention. The Labour Court, further noted that the letter of appointment produced by the petitioner himself evidences this fact. As such, the complaint filed by the petitioner was against the entity which is not its employer. Thus, he has dis-entitled himself from getting the relief as prayed. This finding has been confirmed by the Industrial Court with observations at para-8. The Industrial Court noted that, a specific issue as regards the tenability of the complaint was raised about the description of the respondent, Company. The submission made on behalf of the employer on the controversy was not replied by the petitioner. Also no attempt was made by the petitioner to file proceedings against the proper and correct employer.

4). In view of the above position, the complaint filed by the petitioner was no complaint at all. Further, even if the petitioner were to succeed in the petition, the same would have resulted into unexecutable Award. The petition is therefore dismissed.

(SMT. R.P. SONDURBALDOTA, J)