

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

WRIT PETITION NO. 8192 OF 2015

Arunkumar Shriram Pathak & anr. ... Petitioners

v/s

M/s.Mecloids Garage ... Respondent

Mr.V.M. Parkar for the petitioners.

Ms.Anjali Purav for the respondent.

CORAM: N.M. JAMDAR, J.

DATED : 7 OCTOBER 2015

ORAL ORDER:

Rule. Rule made returnable forthwith. Respondent waives service. By consent of parties taken up for final disposal.

2 The Petitioners challenge the order passed by the Labour Court, Mumbai, dated 23 February 2015 allowing the application filed by the Respondent for restoring the application which was disposed of by ex-parte order dated 11 September 2012.

3 Having heard the learned counsel for the parties and considering the facts and circumstances, I am of the opinion that cogent reasons have been given by the Labour Court for restoration. The Labour Court has considered the factum of service

of notice and has come to the conclusion that the notice was not properly served and after the Respondent became aware of the proceedings he approached the Court and is ready to contest the matter on merits. The Labour Court has also observed that, in case the Petitioners succeeds, they will get compensation along with interest.

4 However, the Labour Court has granted cost of ₹5,000/- which, to my mind, will not balance the equities of the case. The incident in question for which compensation is being sought took place some time in the month of May 2006. By the earlier order, compensation of ₹4,42,740/- was directed to be deposited with interest. Therefore, the Labour Court passed the impugned order. It could have considered a deposit of part of the amount. Since the matter now is pending before the Labour Court, liberty is granted to the Petitioner to make an application for deposit by the Respondent for some ad-hoc amount as and by way of interim relief. However, what should be the quantum of this amount is left to the discretion of the Labour Court to decide. The Labour Court no doubt consider overall equities of the case and fix an appropriate amount. The amount will be decided considering the broad equities, facts and circumstances and the contentions on merits. It is also left open to the Labour Court to consider the application of the Petitioners for withdrawal of the amount so deposited.

5 In view of the above, no further orders are necessary to be passed in this petition.

6 Writ petition is disposed of in above terms. No order as to costs.

(N. M. JAMDAR, J.)

CERTIFICATE

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