

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 9594 OF 2014

Neha Pakaging Industries
Through its Proprietress
Ms. Jyoti Bharat Shah

..Petitioner

Vs.

1. Sou. Vimal Kondiba Gade and ors.

..Respondents

Mr. T. R. Yadav, Advocate for the petitioner.
Mr. A. R. Metkari, Advocate for respondents No.2 & 3.
Mr. R. Shah, Advocate for respondent No.4.

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

Date : 11th August, 2015.

P.C. :

1. This petition challenges the order dated 6th September, 2014, by which the Labour Court, Pune allowed the application filed by respondent No.1, for issuance of witness summons to the petitioner for production of two documents i.e. certificate of it's registration under Shops and Establishment Act and it's attendance cum wage register till date. The application had been filed after respondent No.1 had adduced her evidence to show that she was working with the respondent No.4 at the directions of the petitioner. The application also mentions that the proprietor of the petitioner and respondent No.4, are husband and wife. They carry on the businesses together.

2. The application was contested by respondent No.4, contending that the application filed was mala fide, revengeful, misconceived and untenable in law. It was also alleged by respondent No.4 that it was filed solely with a view to harass the wife and pressurize respondent No.4 to make unprofessional compromise. The next argument was about the timing of the application. According to respondent No.4 the application ought to have been preferred either before commencement of the trial or during the trial but not after closure of the evidence. The Labour Court rejected the contentions of respondent No.4 holding that it is the specific case of respondent No.1 that respondent No.4 is the husband of proprietor of the petitioner and the respondent No.1 had been working with respondent No.4, as per the directions and convenience of the petitioner.

3. Mr. Yadav, the learned advocate for the petitioner submits that the Labour Court could not have issued witness summons to the petitioner for production of documents relating to its business because there is no relationship of employee and employer between the petitioner and respondent No.1. Therefore, the petitioner cannot be a witness in the dispute between respondent No.1 and respondent No.4. He further submits that the Labour Court has no jurisdiction to entertain dispute of the employee against a third party.

4. There is no substance in the objection taken by the petitioner to issuance of witness summons to it, looking to the specific case of respondent No.1 against the petitioner and respondent No.4. Though the dispute raised is only with respondent No.4, if according to respondent No.1 two documents relating to the petitioner are relevant for deciding that dispute, she must have an opportunity to establish her case. The petitioner can not object to appear as a witness in the Court on the ground that respondent No.1 has no dispute with her. No person resist a witness summons or refuse to appear in Court as a witness. Any dispute as regards relevancy of the documents to be produced can be considered by the Court only after the same is produced in evidence. Hence, the petition as filed is clearly an abuse the process of law. It is dismissed with costs quantifying Rs.5,000/- (Rupees five thousands) to be paid to respondent No.1.

[Smt. R. P. SondurBaldota, J.]