

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
**WRIT PETITION NO.1101 OF 2015**

Mr. Pintu Jaikishan Prasad                      ....Petitioner

V/s.

M/s. Maa Ashish Textile Industries Pvt.  
Ltd. & Anr.                                              ....Respondents.

Mr.Prithviraj Singh, Advocate for the petitioner.  
Ms.Jacinta D' Silva I/b J. M. D' Silva, Advocate for respondent  
no.1.

CORAM : Smt. R. P. SondurBaldota, J.  
DATE : 21<sup>st</sup> July, 2015.

P.C.:

1).            This petition challenges the award dated 15<sup>th</sup> December, 2012 passed by the Labour Court in Reference (IDA) No.29 of 2011.

2).            The petitioner claims to be an employee of the respondent company as a driver since 1996. According to him his services were terminated with effect from 4<sup>th</sup> April, 2009 by one Mr. Gopal B. Agarwal and Mr. Bajrang B. Agarwal, the directors of the company. Therefore at his instance reference under Reference (IDA) No.29 of 2011 came to be made to the Labour Court. The defence taken by the respondent was that there is no relationship of employee and employer between the parties and that the petitioner was the personal driver of the directors and his services

is completely controlled by the directors including the payment of his salary. The directors were entitled to reimburse of the salary paid to the driver as perks available to them.

3). During the hearing of the reference, the petitioner produced documents of service certificate dated 15/12/2008, salary vouchers dated 4/3/2009 and 2/4/2009, I-card, gate pass, invoice/bill dated 17/12/2004 of Autobahn Enterprises Pvt. Ltd., repair order, job card dated 12/8/2008, tax invoice of Astavinayak Auto Pvt. Ltd. and Government receipt of payment of fine dated 15/12/2000, 28/4/2004 and 7/8/2010, RTO license dated 13/8/2004 and letter dated 2/7/2012. The salary certificate produced is typed on the letterhead of the company and bears rubber stamp of the authorised signatory. The contents therein read as follows:

“To whom it may concern, this is certified that Mr. Pintu Prasad working in our co. as driver from last two year in his duty he is honest and punctual.”

. Such Certificate can hardly help the petitioner to establish his employment with the respondent. The Certificate refers to his employment with the company only for 2 years when the claim of the petitioner is that he is working since 1996. The salary vouchers produced are also of only 2 months. The document of identity card is not issued by the respondent company. It is issued by the Juhu Gymkhana Club. The other documents are unconnected to the employment of the petitioner. They may at the highest

indicate the work done by the petitioner during the period of his service.

3. As against this the director of the Company who was examined has stated that the work done by the petitioner was for him. The petitioner was advanced loan of Rs.20,000/- which was being repaid by way of monthly installment of Rs.2,000/- to Rs.3,000/- deducted from the salary. This fact was admitted by him and also the fact that the vehicle driven by him was made available to him by the director. On the basis of the above evidence, the Labour Court ruled that the petitioner was not an employee of the respondent company but was the personal employee of the director of the company. Therefore, there was no question of his reinstatement in the company. I find no infirmity of whatsoever nature in the impugned order. The petition is therefore dismissed.

(SMT. R. P. SONDURBALDOTA, J.)

