

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5958 OF 2016

Machindra s/o Dattu Karale
and another

PETITIONERS

VERSUS

Punam @ Pournima Shahaji Bhingardive
and another

RESPONDENTS

Mr.V.P.Latange, Advocate for the petitioners.

Mr.Jiwan Patil h/f Mr.G.B.Rajale, APP for the respondent/State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/07/2016

PER COURT :

1. Learned Advocate appears for respondent Nos.1, 4 and 5 and consequentially also for respondent Nos. 2 and 3 as they are under the guardianship of their biological mother / respondent No.1. Respondent No.6 has passed away and this petition abates to that extent.

2. I have heard the learned Advocate for the respective sides at length. The undisputed facts are that the petitioners, who are opponent Nos. 2 and 3 before the Labour Court in Application (WC) No.68/2013, did not participate in the said proceedings purportedly under the belief that since they are also co-labourers alongwith the

original claimants, they have nothing to say in the matter. However, the original claimants proved before the Labour Court that these petitioners are liable to pay compensation. Consequentially, the Labour Court has delivered its judgment dated 20/08/2014 directing the petitioners alongwith original opponent No.1 which is the deceased respondent No.6 to pay compensation.

3. The petitioners move Misc.Appl.No.1/2015 praying to the Labour Court to recall its judgment dated 20/08/2014 and reconsider the case.

4. Grievance is that when the said Misc.Appl. is pending, the same Labour Court has issued a recovery certificate in Misc.Appl. Recovery No.20/2013. It is, therefore, prayed that as the entire oral evidence has been recorded before the Labour Court in the Misc.application, the impugned order dated 20/04/2016 could be stayed for a short duration within which the Labour Court could decide Misc.application No.1/2015.

5. Learned Advocate for the respondents opposes this petition and submits that the same be dismissed with costs.

6. Upon hearing the learned Advocates, I have considered the record available. Both the learned Advocates have jointly submitted that recording of oral evidence in Misc.Application No.1/2015 is concluded and the matter is at the stage of final arguments.

7. Considering the above and in order to balance the equities and also by considering the fact that these petitioners, by choice, did not participate in the proceedings in the compensation case before the Labour Court, I am inclined to grant protection to the petitioners considering the fact that the petitioners make a statement that they would deposit Rs.50,000/- each before the Labour Court.

8. As such, this petition is partly allowed. The impugned order of recovery dated 20/04/2016 in Misc.Appl.(WC) Recovery No.20/2014 is stayed for a period of 8 (eight) weeks from today on the condition that the petitioners shall deposit an amount of Rs.50,000/- each before the Labour Court within 4 (four) weeks from today.

9. The Labour Court shall decide Misc.Appl.No.1/2015, considering that the recording of oral evidence is over, within a period of 8 (eight) weeks from today. Needless to state, in the event the petitioners fail to deposit the amount of Rs.50,000/- each, as

directed above, this interim protection shall stand vacated and the impugned order dated 20/04/2016 issuing recovery certificate, shall become operative and executable.

(RAVINDRA V. GHUGE, J.)