

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 887 OF 2015
IN
WRIT PETITION NO. 897 OF 2013

ALONGWITH

CIVIL APPLICATION NO. 886 OF 2015
IN
WRIT PETITION NO. 1086 OF 2013

M/s. Rathi Rerolling Mills	.. Applicant/Petitioner
vs.	
Ramtirath Varma and ors.	.. Respondents

Mr. V. R. Kasle i/b Ram and Co. for the Applicant/Petitioner.
None for the Respondents.

CORAM : M. S. SONAK, J.
DATE : 21 JUNE 2016.

P.C. :-

1] By both these applications, the applicant, which is the original petitioner in Writ Petition Nos. 897 of 2013 and 1086 of 2013, seeks to bring on record the legal representatives of the deceased respondent Amarish Bahadur.

2] Both the writ petitions were instituted in the year 2013, in order to challenge the award of the Labour Court, by which, Amarish Bahadur has been awarded amount of Rs.78,843/- and Rs.91,394/-. These amounts have been awarded towards lay off compensation.

3] It now transpires that Amarish Bahadur had expired on 23 June 2010. At the stage of institution of the petition, the petitioner-applicant company was not careful and therefore, impleaded Amarish Bahadur as one of the respondents. The applications state that the process was returned unserved with remark "*dead*". The applications do not indicate the details as to when such intimation was received. However, reliance is placed upon the letter dated 1 July 2014 addressed by the applicant to the advocates Shukla and Yadav demanding furnish of death certificate. Therefore, it is clear that at least as on 1 July 2014, the applicants were very much aware of the demise of Amarish Bahadur.

4] There is delay of four years and nine days in taking out the civil applications and seeking to bring legal representatives of deceased Amarish Bahadur on record. The explanation for such inordinate delay is hardly satisfactory and does not constitute any sufficient cause. The learned counsel for the applicant has submitted that the Director of the applicant company was unavailable and therefore, such application could not be made within reasonable time. Apart from the circumstance that such explanation is not even set out in the civil applications, considering that the matters pertain

to the workmen's compensation, the alleged non-availability of the Director of the applicant company can hardly constitute sufficient cause. The applicant company is required to display greater sensitivity in such matters. The respondent Amarish Bahadur has already expired. No useful purpose will be served in denying his widow and son the compensation as aforesaid. The dismissal of the petition as against the respondent Amarish Bahadur, will also, not affect the case of the applicant on merits as against the other respondents, who are contesting the matter. In any case, this position is made clear.

5] Accordingly, both the civil applications are dismissed. As a result of dismissal of civil applications, the Writ Petition Nos. 897 and 1086 of 2013 stand dismissed as against the respondent Amarish Bahadur. The applicant has already deposited certain amounts in the Labour Court. However, it appears that the said amounts have been kept in Fixed Deposits, since, they pertain to the awards made in favour of several respondents. At this stage, rather than permit any proportionate withdrawals, the applicant company is directed to pay the amounts in terms of the orders impugned in these petitions to the legal representatives of the deceased

respondent Amarish Bahadur within a period of six weeks from today. However, the applicant company is at liberty to withdraw the proportionate amounts at the stage when the Fixed Deposit come up for renewal, after adducing proof as well as filing an affidavit that the aforesaid amounts alongwith interests at the rate of 7% per annum have been duly paid to the legal representatives of the deceased respondent Amarish Bahadur.

6] The applicant company to file necessary compliance report in the main petitions within a period of two weeks from the date of compliance.

7] Both the civil applications are disposed in the aforesaid terms.

(M. S. SONAK, J.)

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