IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition NO. 6052 OF 2016

Swami Ramamnand Bharti Sahakari Soot Girani Ltd. ...Petitioner
Versus
Shri. Sandip Sambhaji Mali ...Respondent

Mr. Sandeep Mutalik for the Petitioner

CORAM : R. M. SAVANT, J.
DATE : 14th SEPTEMBER, 2016

P.C.

1 The above Writ Petition take exception to the order dated 17.11.2015 passed by the Learned Member of the Industrial Court, Sangli, by which order the application Exhibit U-2 came to be partly allowed and the Petitioner is directed not to terminate the services of the Respondent without following the due process of law pending the complaint.

2 The Petitioner herein is a weaving mill with whom the Respondent is working. The Respondent above named as also the Respondents in the companion matters have filed Complaint ULPs under Section 28(1) read with Item No.9 and 10 of Schedule IV of the MRTU and PULP Act 1971 (for short the said Act), claiming permanency and payment as per Minimum Wages Act. In the complaint filed by the Respondent being Complaint ULP No. 229 of 2015, an application for interim relief under Section 30 of the said Act came to be filed by the Respondent. In the said application, the relief sought was vide

prayer clause (a) and was to the effect that the status-quo in respect of the service conditions of the Respondent be maintained and that wages be paid to him as per the Minimum Wages Act.

3 The said application was opposed to on behalf of the Petitioner by filing its Written Statement cum Reply to the said application for interim relief. In so far as the interim relief sought is concerned, the reply of the Petitioner was inter alia to the effect that the Respondent i.e. the complainant has made out no prima facie case for grant of the said relief and that the relief claimed vide the said interim application is as and by way of final relief and hence the same cannot be granted. In so far as the said application for interim relief is concerned, in paragraph 5 it has been averred by the Respondent that on account of the claim made by him he is apprehensive that his services would be terminated. Since the complaint was filed under Item 9 and 10 of Schedule IV of the said Act, the same was heard by the Learned Member of the Industrial Court, Sangli. The Learned Member of the Industrial Court by the impugned order dated 17.11.2015 has partly allowed the application for interim relief to the extent mentioned in the operative part of the said order. The Learned Member vide clause 2 of the operative part has directed the Petitioner i.e. the Opponent in the said complaint not to terminate the services of the Applicant without following the due process of law till the decision of the complaint. This relief the Learned Member has circumscribed by observing

in the earlier part of the order that since the complainant apprehends the termination of his services, the said relief is required to be granted. In so far as the relief sought vide prayer clause (a) is concerned, the Learned Member has observed that grant of said relief would amount to granting the final relief and therefore refused to grant the said relief and granted interim relief to the extent mentioned hereinabove.

4 It was the submission of the Learned Counsel Mr. Mutalik appearing on behalf of the Petitioner that the relief granted by the Industrial Court was not even part of prayer clause (a) of the interim relief application as also the Industrial Court did not have the jurisdiction to grant the said relief as the said relief falls within Item 1 of Schedule IV, in respect of which the Labour Court has the jurisdiction. The Learned Counsel sought to place reliance on the judgment of a Learned Single Judge of this Court in the matter of **Dilip Vs. Industrial Court Nagpur & Ors.**[1]

5 In my view, it is not possible to accept the contentions urged by the Learned Counsel for the Petitioner. Though the complaint filed is invoking Item 9 and 10 of Schedule IV of the said Act, the relief granted by the Industrial Court in the context of the relief sought in the complaint, as also having regard to the apprehension expressed by the complainant i.e. the Respondent herein the said relief can be said to be incidental to the main

1 **1996(72) FLR 166**

relief. If the services of the complainant are terminated, then the complaint itself would become infructuous. The reliance placed on the judgment of a Learned Single Judge of this Court in Dilip (Supra) is misplaced in view of the fact that the relief by way of directing the Petitioner not to terminate the services of the complainant without following the due process of law pending the complaint being incidental to the relief sought in the complaint, as also the Industrial Court was within its powers to grant such a relief having regard to Section 32 of the said Act. In any event, the relief granted by the Industrial Court can be said to be innocuous which this Court does not deem it appropriate to interfere with in its Writ Jurisdiction under Articles 226 and 227 of the Constitution of India. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]