IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1657 OF 2016
IN
WRIT PETITION NO. 3775 OF 2013

Dilip Baburao Kurundvade .. Applicant
V/s
Tukaram Subrao Sarnaik .. Respondent

WITH
CIVIL APPLICATION NO. 1659 OF 2016
IN
WRIT PETITION NO. 3776 OF 2013

Dilip Baburao Kurundvade .. Applicant
V/s
Santosh Tukaram Sarnaik .. Respondent

WITH
CIVIL APPLICATION NO. 1660 OF 2016
IN
WRIT PETITION NO. 3777 OF 2013

Dilip Baburao Kurundvade .. Applicant
V/s
Appa Tukaram Sarnaik .. Respondent

Mr. Nilesh S. Patil for the applicant.
None for the respondents.

CORAM: D.H. WAGHELA, CJ.

DATE : 12th JULY 2016

P.C.:

These applications are made after admitted delay of 365 days for restoration of the original writ petitions which were dismissd for default on 27th April 2015. It is mentioned in the said order itself that the petitions were shown on the board of 27th April 2015 specifically for dismissal and yet the petitioner or his advocate remained absent. The applications contain averments about delay which are not inspiring any confidence. On the other hand, it is orally submitted by learned counsel for the applicant that in fact the parties were negotiating for an amicable settlement and hence the present applications for restoration were not filed immediately after learning about dismissal of the petitions.

2. It appears from the record that the main petitions were filed challenging the award / order dated 22nd October 2012 of the Labour Court at Kolhapur in Reference Nos.181, 182 and 183 of 2010. After filing of the petitions in March 2013, the order dated 21st January 2014 was made to remove all office objections, failing which the petitions were to stand dismissed without reference to the Court. On the other hand, the order dated 16th April 2013 was made to issue notice before admission and an ad-interim order staying the operation and implementation of the award dated 22nd October 2012 was also granted on condition that the petitioner would deposit 50% of the awarded amount within 4 weeks. Learned counsel for the

applicant could not give the specific date or the specific amount which was deposited before the Labour Court after the aforesaid order of ad-interim relief. However, it was admitted by him that the respondent workmen have not been reinstated in service and it is not known whether they have received any amount towards back wages so far.

3. Under the above circumstances, learned counsel fairly submitted that the petitioner may have to deposit with the Labour Court at Kolhapur total sum of Rs.5 lakhs before the present applications could be entertained so that the earlier proceedings and the present proceedings before this Court may not amount to abuse of the process of Court. Learned counsel, however, requested to grant time of more than one month for the petitioner to deposit the amount as aforesaid, without prejudice to his rights and contentions.

4. Accordingly the applicant is directed to deposit before the Labour Court at Kolhapur total amount of Rs.5 lakhs without prejudice to the rights and contentions as a condition precedent for issuance of notice in the present applications. If such amount is so deposited on or before 31st August 2016 and the proof thereof is submitted in the Registry, notices may be issued to the respondents in the present applications making them returnable on 27th September 2016. In case the amount as aforesaid is not deposited and proof thereof is not submitted in the Registry on or before 31st

August 2016, the applications shall stand dismissed without requiring any further order from the Court.

(CHIEF JUSTICE)