

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.5 OF 2014
in
WRIT PETITION NO.8076 OF 2011**

Umashankar R.Mourya .. Applicant
Vs.
Gulabchand Gukhha & Ors. .. Respondents

Mr.Amol P. Mhatre for the applicant.
Ms.Priya Chougule i/by Mr.Y.M. Pendse for the respondent nos.1 & 2.
Ms.Aparna D.Vhatkar, AGP for the respondent no.3.

CORAM : R.D. DHANUKA, J.
DATE : 8th March 2016

P.C.

. By this civil application, the applicant (original respondent no.1 in the writ petition) seeks liberty to withdraw the entire awarded amount which is alleged to have been deposited by the petitioner before the trial Court.

2. Learned counsel appearing for the applicant invited my attention to the order dated 9th July 2013 passed by Shri Justice K.K. Tated in Writ Petition No.8076 of 2011 in which this Court had recorded the statement made by the learned counsel for the petitioner that pursuant to the order passed by this Court on 21st October 2011, the petitioner had already deposited the entire decretal amount with the Tahsildar, Bhiwandi, District Thane. This Court accepted the said statement made by the learned counsel for the petitioner and admitted the said writ petition. This Court continued the interim protection granted by this Court till the hearing and final disposal of the said writ petition.

3. My attention is also invited to the order passed by this Court in this civil application on 22nd December 2015 in which this Court recorded the statement made by the learned counsel for the original petitioner on instructions that the amount of Rs.10 lacs would be paid to the respondent no.1 (applicant herein) as well as his brother (i.e. Rs.5 lacs each) towards full and final settlement of all the disputes between the applicant, the respondent and his brother. This Court also recorded the statement made by the learned counsel for the respondent workman and his brother who were present in Court accepting the said offer made by the original petitioner. Learned counsel for the petitioner made a statement that the amount would be given by 15th February 2016 by way of a Demand Draft. Learned counsel appearing for the respondent nos.1 & 2, on instructions from both the brothers, made a statement that upon receipt of the said amount of Rs.10 lacs, the proceedings filed by the respondent and his brother would come to an end and a copy of the said order would be placed before the Court wherever the proceedings are pending for appropriate disposal.

4. By an order dated 16th February 2016, this Court after hearing the learned counsel for the parties passed an order permitting the applicant to withdraw the amount deposited by the original petitioner and clarifying that the amount of Rs.10 lacs which is agreed to be paid by the original petitioner would stand reduced to that extent.

5. Learned counsel appearing for the applicant (original respondent no.1) invited my attention to the letters addressed by the applicant through his advocate to the Tahsildar, Bhiwandi which were received by the Tahsildar on 20th February 2016 and 25th February 2016

and informing the Tahsildar about the orders passed by this Court recording that the entire decretal amount had been deposited by the original petitioner before the Tahsildar, Bhiwandi and requesting the Tahsildar to furnish information about the date and amount of deposit, if any, made by the original petitioner to enable the applicant to take steps for withdrawal. Learned counsel for the applicant states that the applicant was orally informed by the office of the Tahsildar that no record of any such alleged deposit made by the original petitioner are available with the office of the Tahsildar, Bhiwandi.

6. Learned counsel appearing for the original petitioner seeks time on the ground that the learned advocate on record is not in Town.

7. A perusal of the three orders passed by this Court clearly indicates that the original petitioner had agreed to pay a sum of Rs.10 lacs towards full and final settlement of all the disputes between the applicant and his brother which offer was accepted by the applicant and his brother and had agreed to withdraw the proceedings filed by them upon receipt of such amount. The original petitioner had though made a statement before this Court on 22nd December 2015 that the amount would be paid by 15th February 2016, no such amount came to be paid or deposited. The petitioner was granted further time by this Court on 16th February 2016 to enable the respondent to withdraw this amount deposited by the original petitioner to the extent of Rs.10 lacs.

8. In my prima facie view, the petitioner has willfully disobeyed the orders passed by this Court on 22nd December 2015 and 16th February 2016. Since the petitioner has not appeared to have

deposited any amount before the Tahsildar, Bhiwadi or has not made any payment to the applicant and his brother as stated before this Court on 22nd December 2015, the interim protection granted by this Court on 9th July 2013 stands vacated.

9. This civil application for withdrawal of the amount is disposed of in aforesaid terms. No order as to costs.

10. It is made clear that the applicant would be at liberty to seek execution of the impugned order dated 22nd July 2011 passed by the Assistant Commissioner of Labour, Bhiwandi (page 18 of the writ petition) for execution of the order passed by the Presiding Officer, First Labour Court, Thane on 7th July 2004.

11. Issue show cause notice upon the original petitioner to the writ petition under the provisions of the Contempt of Courts Act, 1971 read with the provisions of Rule 9(1) of Chapter XXXIV i.e. Contempt of Courts (Bombay High Court) Rules, 1994 as to why the action should not be initiated against the petitioner for violation of the orders passed by this Court on 22nd December 2015 and 16th February 2016, returnable after eight weeks.

R.D. DHANUKA, J.