

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

WRIT PETITION STAMP NO.25275 OF 2016

Shreyas Ramniklal Jhaveri

Ex-partner of M/s. Evergreen Gems : Petitioner.

versus

United Workers Association and ors. : Respondents.

**Mr. S C Naidu a/w Mr. V G Talreja i/by G D Talreja & Associates for the
Petitioner.**

Mr. Joy Deb Saha for the Respondent Nos.1 and 2.

CORAM : R. M. SAVANT, J.

DATE : 14th October 2016

ORAL ORDER

1 At the outset the learned counsel appearing for the Petitioner Shri S C Naidu states that the Petitioner would not press the challenge in so far as the order dated 09/02/2016 passed by the learned Member of the Industrial Tribunal, Mumbai is concerned and would confine the challenge to the Award dated 16/03/2015 passed in Reference (IT) No.6 of 2010. Statement accepted.

2 Rule, with the consent of the learned counsel for the parties made returnable forthwith and heard.

3 In view of the said statement of the learned counsel for the Petitioner, the challenge therefore is restricted to the Award dated 16/03/2015 passed in Reference (IT) No.6 of 2010 by the learned Member of the Industrial Tribunal, Mumbai. By the said Award the Reference in question came to be answered in favour of the Respondent No.1 Union.

4 The learned counsel for the Respondent Nos.1 and 2 Shri Joy Deb Saha, who is also the President of the Respondent No.1 Union, after arguing for some time, makes a statement that he has no objection to the impugned Award being set aside and the matter being relegated back to the Industrial Tribunal, Mumbai for a de-novo consideration of the Reference in question. The learned counsel appearing for the Petitioner Shri S C Naidu has no objection to the said course of action being followed.

5 In view of the said statement of the learned counsel for the Respondent Nos.1 and 2 Shri Joy Deb Saha, it is not necessary to consider the impugned Award on merits and thereby not necessary to give detailed reasons for setting aside the impugned Award. The impugned Award would accordingly stand set aside and the Reference in question i.e. Reference (IT) No.6 of 2010 is remanded back to the concerned Industrial Tribunal for a de-novo consideration, in terms of the following directions :-

- (i) The learned counsel for the Petitioner Shri S C Naidu states that Written Statement would be filed by the Petitioner on or before 16/11/2016. Statement accepted.
- (ii) After the Written Statement is filed, the Respondent Nos.1 and 2 would be entitled to file rejoinder and additional documents, if any.
- (iii) On the basis of pleadings the learned Member of the Industrial Tribunal is directed to re-frame the issues in the Reference.
- (iv) Both the parties would be entitled to lead evidence in respect of their respective assertions.
- (v) The concerned Industrial Tribunal is directed to hear and decide the Reference in question de-novo on its own merits and in accordance with law.
- (vi) The contentions of the parties are kept open for being urged before the Industrial Tribunal.
- (vii) Setting aside of the impugned Award should not be construed as

any expression of opinion on the merits of the respective cases of the parties.

- (viii) Since the Reference in question is remanded back, the concerned learned Member of the Industrial Tribunal is directed to hear and decide the Reference in question latest by 31/05/2017.
- (ix) The parties to appear before the concerned Industrial Tribunal on 16/11/2016 on which day the Tribunal may fix the schedule as per its convenience.
- (x) Rule to accordingly stand disposed of in terms of the above.

[R.M.SAVANT, J]