

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

**CIVIL APPLICATION NO. 10 OF 2016
IN
LETTERS PATENT APPEAL NO. 71 OF 2012**

Marathe Textiles Mills, Miraj,
through Proprietor Balwant Textiles
Mills Pvt.Ltd, ... Applicants.

V/s.

The State of Maharashtra and Others. ... Respondents.

Mr. Rashid Khan a/w. Saurabh V. Patil, Advocate for the
Applicants.

Mr. N. C. Walimbe, AGP for the State.

Mr. V. R. Mankapure, Advocate for Respondent Nos. 7, 12, 14,
17, 18, 23, 28,35, 50, 60 & 69.

**CORAM : V. M. KANADE AND
MRS.SWAPNA JOSHI,JJ.**

DATE : 26th SEPTEMBER, 2016

P.C. :

1 Heard the learned counsel appearing on behalf of
the Applicants and the learned counsel appearing on behalf of
the Workmen.

2 This civil Application is taken out by the Applicants
in a disposed of Letters Patent Appeal No. 71 of 2012. The
Applicants are seeking following reliefs :

- a) That this Hon'ble Court be pleased to condone the delay (if any) in filing this application.
- b) That this Hon'ble Court be pleased to extend the time of depositing the amount as directed by this Hon'ble Court in order dated 16th April 2012 by another 4 weeks.
- c) That this Hon'ble Court be pleased to set aside the orders dated 15th October 2015 on the Applicants depositing the alleged amounts due towards gratuity.
- d) That this Hon'ble Court be pleased to direct the Respondent No. 2,3 and 4 not disburse the payment of the said amount which will be deposited by the applicant till the final hearing of the original application of the Employees of the Applicant.
- e) Pending the hearing and final disposal of this application, this Hon'ble Court be pleased to stay the execution of the order dated 15th October, 2015 thereby also stay the auction that is to be conducted on 26th September, 2016 by the Respondent No. 2 and 3.
- f) Any other further reliefs this Hon'ble Court deems fit in the facts and circumstance of the case.

3 The brief facts relevant for deciding this application are as under :

4 The Applicants challenge the order passed by the Assistant Labour Commissioner and Controlling Authority, Sangli, who by the said order had directed the Applicants to pay gratuity to the workmen. This order was challenged by the Applicants by filing a writ petition. The Writ Petition was partly allowed and the impugned order was set aside and the matter was remanded back to Assistant Labour Commissioner. The Applicants then preferred the LPA against the said order. The LPA was dismissed by the order dated 16th April, 2012. Thereafter, the Applicants filed the SLP in the Apex Court which also came to be dismissed on 1st July, 2013. It is submitted that the Applicants have filed a review petition in the Apex Court which is still pending. No stay has been granted by the Apex Court to the order passed by the learned single Judge.

5 Learned single Judge by his order dated 12.03.2012 had also directed the Applicants to deposit the entire amount which was payable by way of gratuity to the workmen. The Applicant did not comply with the said order. It is submitted that, however, now the amount has been deposited with the Competent Authority. It is submitted that the Applicants have also challenged the order dated 15th October, 2015 passed by

the Competent Authority, dismissing the Application filed by the Applicants for condonation of the delay.

6 The Applicants are also seeking further reliefs that Respondent Nos.2, 3 and 4 may be directed not to disburse the said amount which is deposited by the Applicants till the final hearing of the original application filed by the employees of the Applicants. It is not possible to accept the said submission. The Applicants have succeeded in depriving the workmen from getting their lawful dues though the order of the learned single Judge was confirmed right up to the Apex Court. Instead of moving the Assistant Labour Commissioner immediately after the said order and instead of complying with the order passed by the learned single Judge, the Applicants have waited for almost three years and thereafter have recently deposited the said amount. We are informed by Shri Mankapure, learned counsel appearing on behalf of the Workers that most of these workmen had expired during the pendency of these proceedings. He further submitted that this civil application is filed without adding about 100 workers, who were party to the proceedings before the learned single Judge and the Division Bench.

7 We have no manner of doubt that an attempt is made to circumvent the orders of the learned single Judge by filing this application in a disposed of LPA. We are not inclined

to grant any reliefs, as claimed by the Applicants in this civil application. We are of the view that the Applicants have succeeded in protracting the dispute by not approaching the Assistant Labour Commissioner in time. Secondly, in our view this civil application is not maintainable in a disposed of LPA, which was disposed of by order dated 18th April, 2012, which order was confirmed up-to the Apex Court.

8 The civil application is, therefore, dismissed.

(MRS.SWAPNA JOSHI,J.)

(V. M. KANADE,J.)

.....