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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1395 OF 2016

M/s. Magna Graphics (India) Ltd. ...Petitioner

VS

Mr. John Bosco ...Respondent

.....

Mr. R.V. Paranjape, for the Petitioner.

Ms. Ketaki Rege, for the Respondent.

.....

CORAM : S.C. GUPTE, J.

DATED: JULY 13, 2016

P.C. :

. Heard learned Counsel for the parties. The only ground, on which concurrent orders of two Courts below are challenged in the present petition, is that the Courts below have not appreciated the evidence correctly. It is submitted that the workman was doing supervisory duties and also his salary exceeded Rs.10,000/- per month, which was the limit at the relevant time, and as a result the Respondent was not a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 read with Section 3(5) of the MRTP & PULP Act. The Courts below have come to the conclusions that the Respondent was not doing any managerial, supervisory or administrative duties and that his duties were only clerical in nature. The conclusions are matters of fact and based on appreciation of evidence. No perversity can be found in the concurrent conclusions drawn by the Courts below.

2. Learned Counsel for the Petitioner relies on the judgment of the Division Bench of this Court in the case of **Vinayak Baburao Shinde vs. S.R. Shinde and Others**¹. Based on this judgment, which distinguishes the duties of a supervisor from those of a manager, it is submitted that the Respondent in the present case was doing strictly supervisory duties. Whilst drawing a distinction between a supervisor and a manager, this Court observed that unlike a manager, a supervisor has no powers to command others to do a particular work; his function is to see that the work is so done in accordance with the norms laid down by the manager and if the work is not so done, he has to offer assistance to do it correctly in accordance with the norms; he, however, has no power to take any disciplinary action and in the case of leave applications, he can only recommend the leave and not sanction it. The observations do not mean that everyone who assists in the work or recommends leave is carrying on supervisory duties. The judgment really is cast in negative terms, namely, laying down the duties which a supervisor is not expected to carry out and does not outline the duties which the supervisor is expected to carry out. In any event, this is strictly a matter of evidence. Based on the materials available before them, the Courts below have come to a finding that the duties performed by the Respondent were neither supervisory nor managerial but were clerical in nature. The conclusion is sustainable on the basis of the material before the courts and cannot be termed as perverse.

3. In the premises, there is no infirmity in the impugned

¹ 318 H.C. 1985

orders, meriting an interference by this Court in its writ jurisdiction.
The petition is, accordingly, dismissed. No order as to costs.

(S.C. GUPTE, J.)