

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION NO.1371 OF 2016**

- 1] M/s. Jasra Graphics Pvt. Ltd. ]  
a private limited company registered under the ]  
provisions of Companies Act, 1956 having its ]  
registered address at Unit No.7, Prabhadevi ]  
Industrial Estate, 408, Veer Savarkar Marg, ]  
Prabhadevi, Mumbai – 400 025 ]  
]  
2] Mr. Gyan Jasra, ]  
an adult, Indian inhabitant, the director of ]  
the Petitioner No.1, having his office address ]  
at Unit No.7, Prabhadevi Industrial Estate, ]  
408, Veer Savarkar Marg, ]  
Prabhadevi, Mumbai – 400 025 ]..... Petitioners.

**versus**

Mr. Sunil Parsekar, ]  
an adult, Indian inhabitant, having his address ]  
at Chawl 6/2, Bhavani Shankar Road, ]  
Dadar (West), Mumbai – 400 028. ]..... Respondent.

Mr. Ajay Yadav i/by S K Legal Associates for the Petitioner.  
Mr. Prashant C Kamble for the Respondent.

CORAM : R. M. SAVANT, J.  
DATE : 24<sup>th</sup> August 2016

**ORAL JUDGMENT :-**

1 Rule, considering the nature of the challenge, made returnable forthwith and heard.

2 The writ jurisdiction of this Court is invoked against the order dated 09/03/2016 passed by the learned Member of the Industrial Court, Mumbai by which order the Revision Application (ULP) No.25/2015 came to

be dismissed and resultantly the judgment and order dated 22/12/2014 passed by the Labour Court in Complaint (ULP) No.203/2011 came to be confirmed.

3           It is not necessary to burden this Order with unnecessary details having regard to the nature of the directions to be issued. The Respondent herein had filed Complaint (ULP) No.203/2011 alleging unfair labour practice on the part of the Petitioners. As indicated above the said Complaint (ULP) No.203/2011 came to be allowed by the Labour Court by the judgment and Order dated 22/12/2014 and a declaration came to be issued that the Petitioners herein who were the Respondents in the said Complaint had committed unfair labour practices under item 1(a), (b), (d) and (f) of MRTU & PULP Act , 1971. A further direction was issued that the Petitioners herein i.e. the Respondents in the Complaint to reinstate the complainant by giving continuity of service with 50% back wages from 30/09/2011 onwards.

4           Aggrieved by the said judgment and order dated 22/12/2014, the Petitioners herein filed Revision Application (ULP) No.25/2015. In the said Revision Application the Petitioners herein filed an Application (Exhibit C-2) for stay of the judgment and order dated 22/12/2014 passed by the Labour Court. The said Application was heard from time to time since its filing. The roznama of the said Revision Application records the said fact especially against the roznama for 01/02/2016, 22/02/2016, 29/02/2016 and

01/03/2016. The learned Member of the Industrial Court instead of passing an order on the Application (Exhibit C-2) for interim relief, has dismissed the Revision Application itself filed by the Petitioners though the roznama indicates that the Revision Application was never fixed for hearing and neither did the parties consent to the Revision Application being heard.

5           The Petitioners thereafter filed an Application (Exhibit C-9) for stay of the judgment and order dated 09/03/2016 passed by the Industrial Court dismissing the Revision Application. The said Application (Exhibit C-9) was opposed to on behalf of the Respondent herein by filing reply. It seems that the said Application (Exhibit C-9) was heard during which hearing the Petitioners herein withdrew the said Application (Exhibit C-9). The Industrial Court, as the roznama of the date 11/03/2016 discloses, passed the following order :-

“Permitted to withdraw if review is tenable he may  
prefer Review application”

A review application can be filed in terms of Section 30(2) of the MRTU & PULP Act, 1971 only against an interim order and not against the final order passed in the proceedings. Hence in the instant case, the Petitioners could not have filed a review application and have therefore chosen to file the instant Petition.

6           The principal ground on which the said order dated 09/03/2016 is challenged is the ground that the Industrial Court was all along hearing the application (Exhibit C-2) filed for stay but has dismissed the Revision Application itself. It is the submission of the learned counsel for the Petitioners herein that the Industrial Court could not have done so without putting the parties to notice and without giving proper opportunity to the parties to prosecute the Revision Application itself.

7           Per contra, the learned counsel appearing for the Respondent Shri Kamble does not dispute the fact of the stay application being heard by the Industrial Court. However, the learned counsel for the Respondent would submit that the Petitioners were heard on the Application (Exhibit C-9) which they had filed for stay of the said order dated 09/03/2016 which they have chosen to withdraw and the Petitioners therefore cannot now be permitted to contend that though the application for stay (Exhibit C-2) was heard, the Industrial Court has decided the Revision Application itself.

8           Having heard the learned counsel for the parties, in my view, the Industrial Court has erred in deciding the Revision Application itself when what was heard by it was the application (Exhibit C-2) which was filed for stay. The Industrial Court could have undoubtedly decided the Revision Application if it had put the parties to notice in that respect and had given an opportunity

to the parties. However, the roznama of the said Revision Application does not indicated that any such course of action was followed by the Industrial Court. Since the Revision Application has been decided when in fact the Industrial Court had heard only the application for stay, the impugned order can be said to be passed by the Industrial Court without affording proper opportunity to the Petitioners. The impugned order can be said to be vitiated on the said ground and the matter is required to be relegated back to the Industrial Court. Hence the impugned order dated 09/03/2016 is required to be quashed and set aside and is accordingly quashed and set aside and the matter is relegated back to the Industrial Court for a de-novo consideration of the Revision Application. However, on remand the Industrial Court would now decide the Revision Application itself latest by 30/11/2016. The learned counsel for the parties are agreeable to the said course of action. Till then the order passed by Labour Court dated 22/12/2014 would stand stayed. Needless to state that the contentions of the parties on merits are kept open for being urged before the Industrial Court. The Industrial Court would decide the Revision Application on its own merits and in accordance with law. The above Writ Petition is accordingly allowed. Rule is accordingly made absolute to the aforesaid extent with parties to bear their respective costs of the Petition.

**[R.M.SAVANT, J]**