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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3079 OF 2006

M/s. Khushaldas B. Patel

...Petitioner

VS

Manoj Kumar Mishra And Anr.

...Respondents

WITH

WRIT PETITION NO.3144 OF 2006

.....

Ms. Karuna Yadav, i/b. N.M. Ganguli, for the Petitioner in WP/3144/2006 and for Respondent No.1 in WP/3079/2006.

.....

CORAM : S.C. GUPTE, J.

DATED: APRIL 22, 2016

P.C. :

. None for the Petitioner. On the last occasion, this Court had passed an order on this cross petition *inter alia* noting that the Petitioner's Advocate had addressed a communication of having withdrawn his appearance. This Court had directed the Advocate of Respondent No.1 to communicate its order and the next date of hearing to the Petitioner. This Court had made it clear that if on the next date none appears for the parties, the matter would be heard ex-parte and final orders would be passed. Learned Counsel for Respondent No.1 submits that the Advocate of Respondent No.1 had sent a communication to the Petitioner addressed both at the place of business as well as at his native place. Whereas the communication addressed at the place of business is refused by the brother of the Petitioner, who

carries on the same business at the same place, the communication addressed at the native place has come back with the remark “insufficient address”. In any event, it is for the Petitioner to prosecute his challenge diligently. In spite of his Advocate having withdrawn his appearance, if the Petitioner chooses to remain absent and engage an Advocate, there is a clear default in prosecution. Accordingly, Writ Petition No.3079 of 2006 is dismissed for want of prosecution.

2. As far as the Respondent's petition is concerned, namely, Writ Petition No.3144 of 2006, the same challenges that part of the impugned award by which the Labour Court had directed to pay only 50% of back wages to the second party workman. The complaint is that the workman ought to have been awarded full back wages. The Labour Court has discussed in its impugned order, particularly paragraph 11 thereof, why the Court is ordering only 50% of back wages and not the entire back wages. The reasoning does not appear to be perverse or liable to be interfered by this Court in its jurisdiction under Article 226 of the Constitution of India. Accordingly, even that writ petition is dismissed.

3. The rule issued in both the petitions is, accordingly, discharged. No order as to costs.

(S.C. GUPTE, J.)