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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 3099 OF 2015

J.B. Boda Insurance Surveyors and
Loss Assessors Pvt. Ltd.

... Petitioner.

V/s.

J.B. Boda and Co. Pvt. Ltd.
Employees Union.

... Respondent.

Mr. V.P. Vaidya a/w. Mahendra Mukund Agavekar for the Petitioner.
Mr. Shailesh S. Pathak for the Respondent.

CORAM : N.M. JAMDAR, J.

DATE : 11 JANUARY, 2016.

ORAL ORDER :-

Rule. Rule made returnable forthwith. The
Respondent waives service. Taken up for disposal by consent.

2. By order dated 16 October 2015, the Industrial Court, Mumbai has directed the Petitioner to produce the Profit and Loss Account and the balance-sheet of Mumbai Branch of the Petitioner for last five years and copy of the Resolution or written decision regarding closure.

3. The Respondent filed a Complaint (ULP) No. 221 of 2015 in the Industrial Court, Mumbai. In this Complaint the Respondent prayed that the closure notice dated 30 April 2015 effecting retrenchment of the concerned workmen be declared as illegal and other consequential reliefs. One of the grounds raised by the Respondent was that since the Respondent – Union did not accept a particular decision and the wishes of the Petitioner out of vengeance, the Mumbai Branch was closed by closure notice dated 30 April 2015. It is the case of the Respondent – Union that even though this branch was doing financially well, by closure notice dated 30 April 2015 it was malafide closed down. The Petitioner filed a written statement and took a stand that this branch had become unviable and on this and other ground it was necessary to close down the branch. The Respondent filed an application on 29 September 2015 calling upon the Petitioner to produce certain documents and by the impugned order the learned Industrial Court had directed to produce the above mentioned two documents.

4. I have heard the learned Counsel for the parties. The dispute between the parties because of which the application was made for production of documents centers around the legality of the closure of branch and its economic viability. The Petitioner has taken a specific stand that the branch was closed because it was not financially viable. The Petitioner will have to prove its case at

the time of trial. As regard the documents directed to be produced, it is the contention of the Petitioner that such documents need not be produced. In the impugned order the Industrial Court has not considered this issue. Since the defence taken by the Petitioner is intermixed with the merits of the matter, it is not necessary to decide the same at this stage in the Petitioner as the trial is still pending. It is not necessary for the Petitioner to produce their documents at this stage. Even though I have clarified that the Petitioner need not produce these documents as ordered by the impugned order, I have not concluded the issue as to whether it is necessary in law for the Petitioner to maintain the same. This issue can be considered by the Industrial Court on its own merits at the time of trial.

5. Both the parties will have to prove their respective case relying upon the documentary evidence produced by them and it is always open to the Industrial Court to draw such inferences as may be permissible in law.

6. In view of this clarification, no further orders are required to be passed. The Writ Petition is accordingly disposed of with above clarifications.

(N.M. JAMDAR, J.)