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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7128/2016**
M/S HOTEL DE-AQUA

..... Petitioner

Through: Ms. Isha Khanna, Advocate

versus

RAJU AND ORS

..... Respondent

Through: Ms. Prabh Sahay Kaur, ASC for R-12.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **12.08.2016**

CM 29320/2016 (Exemption)

Allowed subject to all just exceptions.

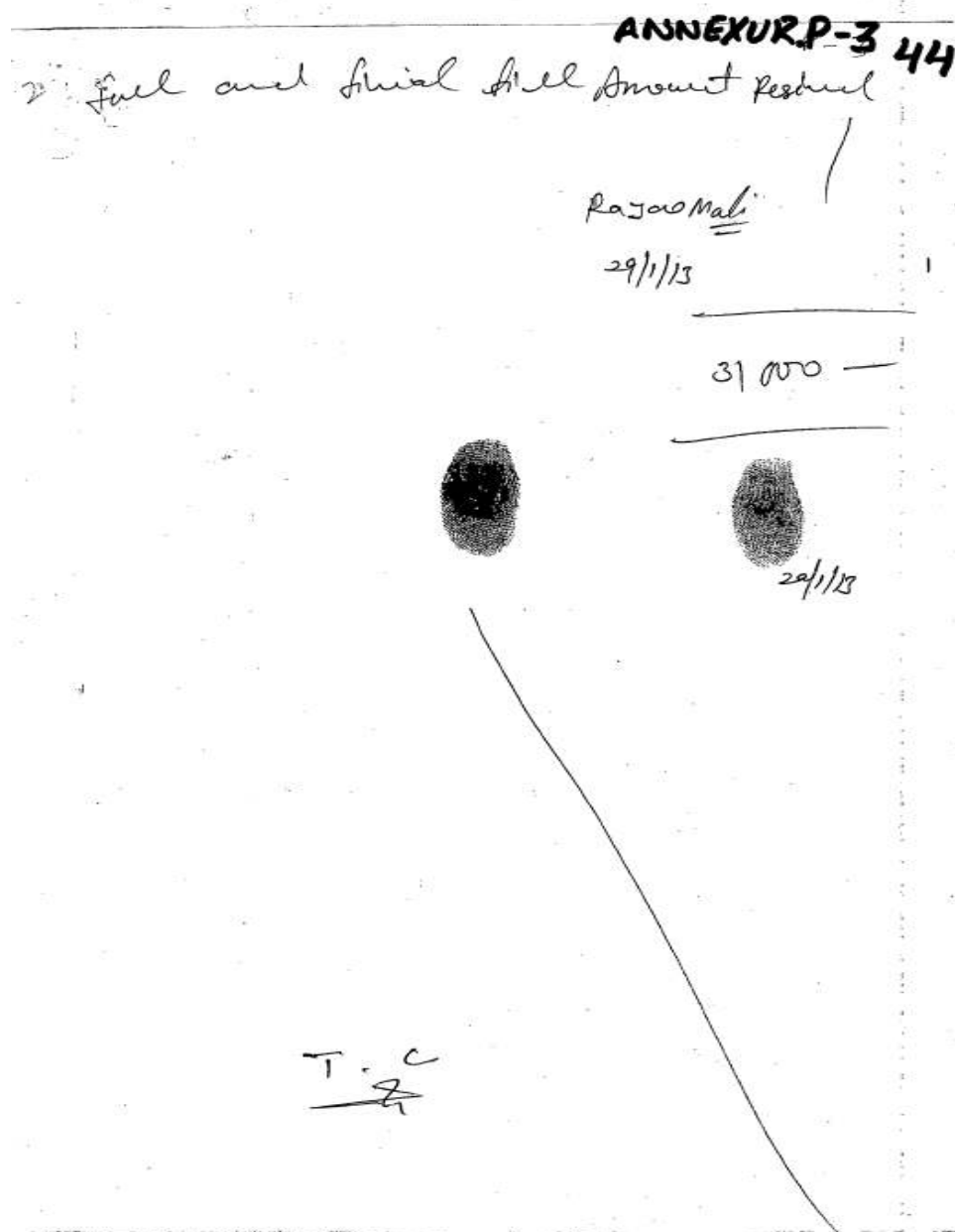
W.P.(C) 7128/2016 & CM 29319/2016 (Stay)

This petition seeks quashing of an order dated 14th July 2016 passed under Section 21(2) of the Delhi Shops & Establishment Act, 1954 on the ground that the said workmen had received full and final payment on their dues. The petitioner claims to have had produced documents to this effect before the authority. The learned counsel for the petitioner submits that despite the said documents being on record, the authority has ignored them and has neither returned any finding thereon nor did it allow the petitioner to lead any further evidence on record especially apropos the thumb impressions of the workmen, purportedly evidencing receipt of all monies.

The Court has perused the documents relied upon by the petitioner (Annexure P-3, appended at Pages 44 to 66). The thumb impressions are in

the middle of the page and do not identify as to who had appended them. The document does not show as to who has paid the money to whom. Therefore, the issue of examination of the thumb impression or signature does not arise. The said documents cannot be relied upon. There is no other evidence mentioned in the order.

Copies of some of the purported receipts appear as under:-



Furthermore in his statement, Mr. Dinesh Singh, an authorized representative of the Hotel, has admitted in his evidence dated 25th February 2016 that:

“I, Dinesh Singh, representing Uday State Pvt. Ltd. for Hotel D Aqua for management. It is correct that the Owner of Uday State and Hotel D Aqua having blood relationship. It is correct that M/s Uday State is a contractor Company. I do not know whether M/s Uday State is registered or not. It is correct that it have not submitted any documentary registration of full and final dues of the 11 workmen. It is correct that document exbtd. as MW-1/5 is correct wherein it is mentioned that due wages of 7 workmen are still pending. It is correct that document exbt. as MW-1/1 (Colly.10) is the payment receipt. It is correct that there is not name of person or a firm of the payee of the full and final payment on document exbt. as MW-1/1. It is wrong to suggest that the document exbt. as MW-1/1 is false and fabricated.”

The learned counsel for the respondents, who appears on service of advance copy, refers to the conclusion to Issue No.1 in the impugned order, which reads as under:-

“In view of the above examination, I am of the opinion that in absence of signature/stamp of respondent on the slips filed regarding payment to 11 workers (Mark as MW1/1) and having not been registered with Conciliation officer as per the provisions of the I.D. Act, 1947, these documents have no authenticity and claimants Sh. Raju (Mali) and 10 others have not received their due earned wages, hence are entitled to receive the same as mentioned in col. 7 of para-1.”

Quite clearly the purported receipts state nothing worthwhile; they neither identify the payer nor the payee. The thumb impressions are obviously of illiterate persons who may not have known why the same were taken. The said documents have no evidentiary value. In the absence of any proof of payment of monies to the workmen, there is no ground for interference with the impugned order.

The petition is without any merit and is accordingly dismissed.

NAJMI WAZIRI, J

AUGUST 12, 2016/Aj