

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 948 OF 2002

1. Manikchand Motilal Katariya,
Age 52 years, Occ. Business
R/o 1042, M.G.Road, (Telikhunt),
Ahmednagar.

2. Abhay Anandram Mutha
Age 35 years, Occ. Business,.
R/o C/o Gurukrupa Medical Store,
Sanjivani Hospital, Manik Chowk,
Ahmednagar.

3. Shri Suresh Mishrilal Sancheti,
Age 50 years, Occ. Business
R/o Near Adhunik Courier,
Navi Peth, Ahmednagar.

..Petitioners

Versus

Danial Diwakar Suryawanshi,
Age 48 years, Occ. Private service
R/o 5/28, Municipal Colony,
Sidharth Nagar, Ahmednagar.

..Respondent

WITH
WRIT PETITION NO. 2729 OF 2002

M/s Katariya Chemicals Corporation
Through its Proprietor -
Manikchand Motilal Katariya,
Age 52 years, Occ. Business
R/o 1042, M.G.Road, (Telikhunt),
Ahmednagar.

..Petitioner

Versus

Danial Diwakar Suryawanshi,
Age 48 years, Occ. Private service
R/o 5/28, Municipal Colony,
Sidharth Nagar, Ahmednagar.

..Respondent

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Advocate for Petitioners : Shri V.S.Bedre
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CORAM : RAVINDRA V. GHUGE, J.

Dated: May 12, 2017

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ORAL JUDGMENT:-

1. Both these petitioners are members of the partnership firm. Both have challenged the interlocutory order dated 14.12.2001, below application Exhibit C-8 passed by the Labour Court, Ahmednagar in Application (IDA) No.122 of 1995. By the impugned order, the preliminary objection of the petitioners that the proceedings filed by the respondents are not maintainable under Section 33-C(2) of the Industrial Disputes Act, have been negated.

2. I had considered the strenuous submissions of Shri Bedre, learned Advocate for the petitioners. None appears for the sole respondent.

3. The Labour Court while dealing with the objections of the petitioners has held that whether there was any employer / employee relationship between the petitioners and the respondent / claimant can be scrutinized only after recording oral and documentary evidence. Any conclusion on this ground cannot be arrived at merely on the basis of the contentions in the written statement.

4. It further concluded that the respondent has specifically claimed that though an appointment letter was not issued to him, he used to regularly sign the pay sheet and used to be paid his monthly wages. He filed an application Exhibit U/4 for production of documents. Though

the Labour Court directed the petitioners to produce the pay sheets as that was the best piece of evidence to decide, whether the respondent has earned wages or not, the petitioners held back the said documents.

5. In the light of the above, I do not find that the impugned order could be termed as being perverse or erroneous. In the event the petitioner desires to place the original pay sheets from March 1978 to October 1990 before the Labour Court in the said proceedings, if not already disposed off, all contentions of the litigating side are kept open.

6. In the light of the above, these petitions are dismissed. Rule is discharged.

7. However, I deem it proper to observe that the II Labour Court, Ahmednagar, shall decide Application (IDA) No.122 of 1997, if not already decided, on its own merits, after considering all the contentions of the litigating sides, as expeditiously as possible and preferably on/or before 31.3.2018. The petitioners shall appear before the Labour Court on 17.6.2017 and the Labour Court would issue notice to the original applicants in the proceedings, before proceeding with the case.

(RAVINDRA V. GHUGE, J.)

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