

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 9 OF 2017

SHRI. VERESSIMO FERNANDES AND 12
ORS.,

... Petitioners

Versus

M/S. J. M. BAXI AND CO., THR. ITS
GENERAL MANAGER, MR. CAPTAIN
RAJESH SAIGAL.,

... Respondent

Mr. Esperdiao Dias Do Rosario and Mr. R. Shetkar, Advocate
for the petitioners.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vledson
Lucio Braganza, Advocate for the respondent.

Coram:- C. V. BHADANG, J.

Date:- 12th July, 2017

P.C.

Heard for some time.

2. The learned Trial Court had granted injunction restraining the respondent from executing/ implementing the transfer order/ letter dated 31/03/2016 and from stopping the salary of the concerned workmen. This order passed by the Trial Court has been set aside by the learned District Judge in appeal.

3. It appears that as per the plaint allegations, the case made out by the petitioners before the Trial Court, was that the impugned transfer orders are in breach of the terms of the

appointment and other conditions of service. It appears that a case, attributing malafides to the respondent, was not made out in the plaint, which is one of the grounds on which, the learned District Judge had allowed the appeal, thereby setting aside the order of injunction, as passed by the learned Trial Court.

4. The order of the learned District Judge is passed on 14/10/2016. The learned Counsel for the petitioners points out that subsequent to that the petitioners have amended the plaint on 17/02/2017, specifically incorporating the case about the impugned transfer orders being passed in a malafide manner. In that view of the matter, the learned Counsel for the petitioner states that the petitioners shall again approach the learned Trial Court with an application for injunction.

5. Shri Pereira, the learned Senior Counsel for the respondent submits that the petitioners workmen are covered by the provisions of the Industrial Disputes Act and the Civil Court would lack jurisdiction to entertain the suit or to grant any interim relief. He submits that this aspect may be left open, to be decided by the learned Trial Court, including all other contentions.

6. In such circumstances, the petition is disposed of as withdrawn.

7. In the event the petitioners file a fresh application for Temporary Injunction, the learned Trial Court shall decide the same on its own merits and in accordance with law.

8. All the rival contentions, including the maintainability of the suit and an application for Temporary Injunction, are left open. In the circumstances, there shall be no order as to costs.

9. The respondents shall not act on the impugned order for a period of two weeks from today.

C. V. BHADANG, J.

SMA