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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO.493 OF 2017
IN
WRIT PETITION NO.8703 OF 2014
WITH
CIVIL APPLICATION NO.492 OF 2017
IN
WRIT PETITION NO.8703 OF 2014**

Santosh S. Mulaje And Ors. ...Applicants

In the matter of :

The General Manager Oriental Bank
of Commerce ...Petitioner

vs

Santosh S. Mulaje And Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.2625 OF 2016
IN
WRIT PETITION NO.8703 OF 2014
WITH
CIVIL APPLICATION NO.2626 OF 2016
IN
WRIT PETITION NO.8703 OF 2014**

Narsaiah Sayanna Deeti ...Applicant

In the matter of :

The General Manager Oriental Bank
of Commerce ...Petitioner

vs

Santosh S. Mulaje And Ors. ...Respondents

.....

Mr. Vinod Joshi, for the Applicant in all Applications.

Ms. G. Getha, i/b. H. Kumar Vaidyanathan & Associates, for the Opponent in Applications and Petitioners in Writ Petition.

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CORAM : PRASANNA B. VARALE, J.

DATED: 9 AUGUST, 2017

P.C.:

. By the present application (Civil Application No.493 of 2017) the Applicants (Respondents in the Writ Petition No.8703 of 2014) pray for directions to pay the wages/deposit wages from the date of the order of the Industrial Tribunal dated 21 December 2013 till date and further directions to deposit the money either in the Court or directions to the Respondent that each and every month the money be deposited in this Court as per order dated 25 April 2016 with the prayer of liberty to withdraw the amount. Learned Counsel for the Applicants invited my attention to the order passed by this Court dated 25 April 2016. Learned Counsel fairly submitted that though the Applicants were to file affidavit to demonstrate that the facts and circumstances of the present case are identical to the facts and circumstances, which are involved in Writ Petition No.7507 of 2013, the affidavit could not be filed due to want of certain instructions. Learned Counsel then submits that the Applicants are before this Court with principal prayer seeking withdrawal of the amount deposited by the Petitioner in compliance of the order of this Court dated 25 April 2016. Learned Counsel invited my attention to paragraphs 3 and 4 of the order dated 25 April 2016. The same reads thus :-

“3] Learned counsel for the petitioner has made a statement

that the petitioner will deposit in this Court backwages at the rate of 20% of their pay and allowances and consequential benefits as directed in the impugned award, within a period of four weeks from today. The statement is accepted and the petitioner is directed to comply with the same.

4] In the peculiar facts and circumstances of the present case, the direction for reinstatement and regularization of the services is hereby stayed. However, the respondents are granted specific liberty to make application under Section 17B of the Industrial Disputes Act, 1947, as also application for liberty to withdraw the amounts which may be deposited by the petitioner. Such applications, when made, will be considered in accordance with law and on their own merits.”

2. Learned Counsel then submitted that initially the whereabouts of all the Applicants were not known, and subsequently by establishing contact with these Applicants the affidavits are also filed on record giving the details. Learned Counsel then submitted that along with the affidavit filed by each of the Applicant, a chart is also placed on record to show the position being told by these Applicants and the details of the basic salary drawn by these Applicants. Learned Counsel then submitted that a communication was forwarded to the Registrar of this Court for seeking the break-up/proportionate share of each Respondent, so as to submit the same before this Court for withdrawal of proportionate amount by each Respondent. Learned Counsel then submitted that as these details were not available with the Applicants, the Applicants calculated the figures roughly in respect of share of each of the Applicant. Learned Counsel submits that on the basis of the last drawn salary of the Applicants, the Applicants are having share of Rs. 3 lakhs each. Learned Counsel submits that as the Applicants are facing the financial hardships and constraints even to live their day-to-day life, the Applicants be permitted to withdraw an amount of Rs. 3 lakhs each,

out of the amount of Rs. 45 lakhs deposited by the Petitioner in this Court, for compliance of the order of this Court dated 25 April 2016. Learned Counsel appearing for the Petitioner vehemently opposes the application. Learned Counsel submits that as there are various issues involved in the petition, and certain disputed facts are also raised at the instance of the Respondents, the petition be heard finally. Learned Counsel also made an attempt to submit before this Court that there is no disclosure in the application about the factum of the Applicants not being gainfully employed. Learned Counsel for the Applicants submits that such a statement is made specifically in the application and he invited my attention to paragraph 7 of the application in support of his submissions. He stated that the Applicants have not been confirmed in any establishment during this period till date. Considering the rival submissions of learned Counsel appearing for the parties, in my opinion, the application can partly be allowed. The Petitioner is directed to permit the Applicants to withdraw an amount of Rs. 1 lakh each, out of the amount deposited in this Court by the Petitioner in compliance of the order of this Court on 25 April 2016. The Applicants to file an undertaking before this Court within a period of three weeks that if the Petitioner succeeds in the writ petition, the Applicants would repay the amount to the Petitioner within stipulated period of eight weeks. In my opinion ends of justice can be met with by passing the order in nature above referred.

3. The applications are, thus, partly allowed and disposed of.
4. In view of the order passed in Civil Application No.493 of

2017, no orders are required to be passed in other Civil Applications seeking withdrawal of the amount deposited by the Petitioner in this Court. Civil Application Nos.493 of 2017 and 2626 of 2016 are disposed of accordingly. Civil Application Nos. 492 of 2017 and 2625 of 2016 not to be considered at this stage and these applications may be considered at later stage.

(PRASANNA B. VARALE, J.)