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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.9946 OF 2017**

Sanjay Tukaram Mohite And Ors. ...Petitioners

vs

Zenith Birla (India) Ltd. Through  
Managing Director And Ors. ...Respondents

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Mr. Mayuresh D. Madgi, for the Petitioners.

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**CORAM : PRASANNA B. VARALE, J.**

**DATED: 12 SEPTEMBER, 2017**

**P.C. :**

. Heard learned Counsel appearing for the Petitioners. The  
Petitioners are before this Court seeking the following reliefs:-

(a) To issue writ of certiorari or any other appropriate writ  
order or direction to quash and set aside order dated 27 June 2017  
passed by Respondent No.5 in Recovery Proceedings No.117 of 2016  
on the file of the Debts Recovery Tribunal – I Mumbai.

(b) To quash and set aside notice dated 7 July 2017 issued by  
Respondent No.4 to Respondent No.1.

(c) Pending the final disposal of this petition, the force,  
execution and operation of the order dated 27 June 2017 passed by  
Respondent No.5 in recovery Proceeding No.117 of 2016 on the file  
of the Debts Recovery Tribunal – I Mumbai, to the extent it directs

taking over possession of freehold land and Plant and machinery, equipments, tools, raw-materials, semi-finished and finished goods belonging to Respondent No.1 at Khopoli, be stayed.

(d) Pending the hearing and final disposal of this petition, further proceedings in Recovery Proceeding No.117 of 2016 in Original Application No.161 of 2014 on the file of the Debts Recovery Tribunal;-I, Mumbai, be stayed.

(e) Ad-interim relief in terms of prayer clauses (c) and (d) above, be granted.

(f) Any other relief as this Hon'ble Court may deem just and proper.

2. Learned Counsel for the Petitioners submitted that Respondent No.1 Company by notice dated 12 December 2013, declared the decision of lock out. A Union, namely, Dharmarajya Kamgar Karmachari Mahasangh, approached the learned Industrial Court by filing Complaint (ULP) No.319 of 2013. An application for interim relief/ad-interim relief under Section 30(2) of the MRTU & PULP Act, 1971 was filed. The Presiding Officer passed order on the application on 12 November 2013. The Petitioners filed Complaint (ULP) No.70 of 2016. Learned Counsel then submitted that recently it came to the knowledge of the Petitioners that in the proceedings before the Debt Recovery Tribunal, Mumbai, an order of appointing the Receiver was passed. The Receiver, by notice dated 7 July 2017, informed the Respondents that in compliance of the order of the Debt Recovery

Tribunal, 12 July 2017 is the date fixed for taking physical possession of the secured assets, i.e. property situated at Village: Vihari (Khopoli), Taluka Khalapur, District Raigad, ad-measuring 105.9 acres. The attempt of the learned Counsel for the Petitioners to submit before this Court was to pray for interim orders in the nature of stay to the notice issued by the Receiver dated 7 July 2017. Learned Counsel, in support of his submissions, placed reliance on the judgment of the Apex Court in **KSL & Industries Limited vs. Arihant Threads Limited**<sup>1</sup>. Learned Counsel submitted that the Petitioners apprehend their dispossession from the staff quarters in view of the notice issued by the Receiver. Learned Counsel then submits that the similarly situated employees were protected by the order of the Industrial Court dated 12 November 2013. Though learned Counsel made attempt to submit before this Court that as the other employees were protected by an interim order passed by the Industrial Court and same treatment be given to the Petitioners, I am unable to accept the submissions for the reason that the perusal of order dated 12 November 2013 clearly shows that the application was filed by the Union challenging the legality of lock out or closure and the order was passed on an undertaking given on behalf of the Company. Insofar as the Petitioners are concerned, the Petitioners have also filed an application on 17 March 2016. The Petitioners were also apprehending of their disposition and, as such, in the said application a specific prayer was made and the same is for restraining the Respondents from dispossessing of immovable property, including land and building and the machinery of the Respondents, there was also a prayer for ad-interim order in prayer clause (f), considering the application was filed by the

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<sup>1</sup> (2015) 1 Supreme Court Cases 166

Petitioners themselves on 17 March 2016 apprehending their apprehension and considering the fact that no steps were taken by the Petitioner for considerable time though the application was filed, I am not inclined to pass any orders at least the interim orders, as prayed for by the Petitioners in the other proceedings initiated before the Debt Recovery Tribunal. Learned Counsel then submitted that as the application is filed by the Petitioners and the same is pending and though a request was made for decision of the application on one or the other pretext, the Respondents prolonged the decision on the application, I am of the opinion that the interest of the Petitioners can be better served by directing the learned Industrial Court, Thane to decide the application filed by these Petitioners on 17 February 2017 as expeditiously as possible and considering the urgency in the matter, more particularly, the notice issued by the Receiver, within a period of two weeks from today. Needless to state that by giving an opportunity of hearing to the Respondents. By such directions, in my opinion, the interest of justice would also be served. The petition can be conveniently disposed of with the above directions to the learned Presiding Officer of the Industrial Court, Thane.

3. Needless to state that all the contentions raised by the Petitioners and would be advanced by the Respondents are kept open for the consideration of the learned Presiding Officer of the Industrial Court, Thane.

**( PRASANNA B. VARALE, J. )**