

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.563/2017
IN
WRIT PETITION NO.1100/1998

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Pooja Batra i/b. Bodhanwalla & Co. for the applicant

CORAM : K. K. TATED, J.
DATE : MARCH 23, 2017

P.C.:

1. Heard. The learned counsel for the applicant submits that they tried to serve the respondent through their Advocate who appeared on behalf of them when the petition No.1100/1998 was finally decided by this court on 07.05.2017. She submits that the advocate on record for the respondent in Writ Petition No.1100/1998 refused to accept the same on the ground that they have already returned all the papers to the respondent.

2. This application is made by the petitioner in Writ Petition No.1100/1998 for withdrawal of the amount of Rs.2,78,836.34 deposited by them in this court, along with accrued interest thereon from the date of deposit till its payment.

3. The learned counsel for the applicant submits that in the present proceedings, they had filed Writ Petition No.1100/1998 challenging the order passed by the Industrial Court directing them to reinstate the respondent workers.

4. The learned counsel for the applicant submits that the respondent worker had also filed cross petition being Writ Petition Nos.6608/1999 and 268/2006 for back wages. She submits that this court (Coram : p. S. Patankar, J., as he then was), by order dated 31.03.1998 in Writ Petition No.1100/1998 directed the petitioner to deposit sum of Rs.2,78,836.34 towards the wages for the balance period of 65 workers.

5. The learned counsel for the applicant submits that during pendency of the Writ Petition No.1100/1998 they had made Civil Application No.1750/2005 for withdrawal of the said amount of Rs.2,78,836.34. She submits that the respondent had also filed their reply dated 09.08.2005 in that Civil Application. She submits that at the time of hearing the said application, this court, by order dated 12.08.2005 directed that the said Civil Application was to be heard along with

Writ Petition at the time of final hearing and accordingly it was tagged along with the Writ Petition.

6. The learned counsel for the applicant submits that the Writ Petition was finally decided by this court (Coram : R. P. SondurBaldota,J., as she then was) by order dated 07.05.2015. She submits that this court, by judgment dated 07.05.2015 allowed the Writ Petition filed by the applicant being Writ Petition No.1100/1998, and dismissed the Writ Petition Nos.6608/1999 and 268/2006 filed by the respondent workers.

7. The learned counsel for the applicant submits that being aggrieved by the said judgment dated 07.05.2015, the respondent workers had preferred Civil Appeal No.4858-4859 of 2016 before the Apex Court. She submits that the Apex Court, by order dated 05.05.2016 disposed of the said appeal directing the applicant to pay sum of Rs.10 lacs to each worker in full and final settlement. Paragraph 7 of the said order dated 05.05.2016 reads thus:

“7. Having regard to the background of the litigation, having regard to the fact that thousands of employees have been discharged on VRS by the Management and having regard to the fact that out of the 65 people who pursued

the litigation, 59 people have already gone on VRS or otherwise, and having regard to the age factor of the appellants, we are of the view that the interest of justice would be advanced if the appellants are paid a lump sum amount towards settlement of all their dues. Though neither the Management nor the workmen could agree on the offers made from either side, having regard to all the aspects which we have referred to above, we feel that to do complete justice between the parties, it will be appropriate that the appellants are given an amount of Rs. 10 Lakhs (Rupees Ten Lakhs) each. The said amount of Rs. 10 Lakhs will be paid to the appellants within six weeks from today and in case of default in making the payment, the amount shall carry interest at the rate of 18% from the date of the award passed by the Industrial Tribunal.”

8. The learned counsel for the applicant submits that they have already paid the said amount to the respondent workers as per order dated 05.05.2016 passed by the Apex Court in civil appeal. Statement is accepted.

9. The learned counsel for the applicant submits that in view of full and final settlement, the respondents are not entitled to any amount deposited by them towards their wages as per order dated 31.03.1998 before this court in Writ Petition No.1100/1998. She submits that in view of the order passed by the Apex Court and the compensation awarded by the Apex Court has

already been paid to the respondent workers, the applicant may be permitted to withdraw the sum of Rs.2,78,836.34 with accrued interest. She submits that said amount is lying in the Registry of this court for last several years.

10. It is to be noted that, in the present proceedings the applicant had deposited Rs.2,78,836.34 as per order dated 31.03.1998 towards wages for the balance period of 7 months in respect of 65 workers. Thereafter all the petitions were disposed of by order dated 07.05.2015 whereby the petition filed by the applicant being Writ Petition No.1100/1998 was allowed and Writ Petition Nos.6608/1999 and 268/2006 filed by the respondent workers were rejected. The Apex Court, by order dated 05.05.2016 in Civil Appeal No.4858-4859/2016, in the interest of justice, directed the applicant to pay lump sum amount of Rs.10 lac to each worker towards full and final settlement.

11. Bare reading of paragraph 7 of the order dated 05.05.2016, it is clear that the respondents have received their compensation. In view of these facts, the applicant, who had deposited the sum of Rs.2,78,836.34 in the Registry of this court

pursuant to the order dated 31.03.1998, is entitled to withdraw the same.

12. Hence, following order is passed:

a. The civil application is allowed in terms of prayer clause (a), which reads thus:

“(a) that this Hon'ble Court be pleased to allow the applicant (org. petitioner) to withdraw the sum of Rs.2,78,836.34 along with interest thereon accumulated from the date of deposit till receipt thereof.”

b. It is not necessary for the applicant to furnish any security against withdrawal of the said amount of Rs.2,78,836.34 with interest.

c. Civil application stands disposed off accordingly.

JUDGE