

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION
CIVIL APPLICATION NO. 2312 OF 2017
IN
WRIT PETITION NO. 3620 OF 2005

Hiralal Gautam ... Applicant

In the matter between :

Surendra Prasad Gupta ... Petitioner

Versus

Hiralal Gautam and another ... Respondents

Mr. M.A. Khan for the Applicant and Original Petitioner.

Ms. Bharati Patil for the Respondents.

CORAM : S.J. KATHAWALLA, J.

DATED : 31st OCTOBER, 2017

P.C.:

1. The Petitioner abovenamed has filed the above Writ Petition against the Award and Judgment passed by the Labour Court, Thane on 13th January, 2005. By an order dated 21st July, 2005 this Court (Coram : Smt. Nishita Mhatre, J.) admitted the Writ Petition and passed the following order :-

“Rule.

2. Interim relief in terms of prayer clause (b) of the Writ Petition on condition that the Petitioner deposits in this Court the entire decretal amount of Rs.3,33,500/- within four weeks from today. The amount, if deposited, shall be invested in a Fixed Deposit of a Nationalised Bank initially for a period of three years and to be renewed till the pendency of the Writ Petition.”

2. The Writ Petition came up for hearing and final disposal before this Court (Coram : Smt. Anuja Prabhudesai, J.) on 12th June, 2017, when the same was dismissed. The order dated 12.06.2017 is reproduced hereunder :-

“None present for the Petitioner. It is seen that on the last date of hearing also none present for the Petitioner. Hence, the Petition is dismissed for non prosecution.”

3. The Applicant has now taken out the above Civil Application seeking permission to withdraw the sum of Rs.3,33,500/- deposited in the Fixed Deposit of Nationalized Bank with interest accrued thereon. The learned Advocate appearing for the Petitioner states that she has taken out an Application seeking restoration of the Writ Petition which was dismissed on 12th June, 2017. However, even after obtaining circulation of the same from this Court, the Civil Application is not served on the Respondents or their Advocate. The Advocate for the Respondents is unable to give any explanation as to why a copy of the Civil Application is not served till date. In view thereof, the Civil Application is allowed and the Applicant is allowed to withdraw the amount with interest accrued thereon. The above Civil Application is accordingly disposed off.

4. The Civil Application No. 2322 of 2017 be listed on 7th November, 2017 for hearing.

(S.J.KATHAWALLA,J.)