

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

WRIT PETITION NO.13879/2016

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. Gobindram D. Talreja i/b. G. P. Talreja & Associates for the petitioner

Mr. Nasir M. Shaikh with Mr. Vishal Jogani for the Respondent

CORAM : K. K. TATED, J.

DATE : FEBRUARY 20, 2017

P.C.:

1. Heard. By this petition under Article 226 and 227 of the Constitution of India the Petitioner is seeking to set aside the judgment dated 22.06.2016 passed by the Commissioner for Employees Provident Fund Compensation and Judge, Labour Court, Solapur dismissing the petitioner's Misc. Application (W.C.) No.34/2015 to review the order dated 09.03.2015 in W.C. Application No. 19/2012.

2. The learned counsel for the respondent raised a preliminary objection about maintainability of the petition. He submits that the judgment dated 22.06.2016 by which the

petitioner's application for reviewing the order dated 09.03.2015 in W.C. Application No.19/2012 was dismissed, can be challenged by way of an appeal only. In support of this contention he relies on the judgment in the matter of *Swapnil Enterprises Vs. Chandrakala Kashiram Kawale & Ors.* 2004 (Supp.2) Bom.C.R. 885, *Rajeev Hitendra Pathak & Ors. Vs. Achyut Kashinath Karekar & Anr.* 2011 DGLS(SC) 668, *Dashrath s/o. Sakharam Mali Vs. Shree Dattaguru Cooperative Housing Society s/o. Maruti Kshirsagar* 2001(1) Bom. C.R.70 and an unreported order dated 09.02.2016 passed by this court in First Appeal No.495/2012.

3. On the other hand, the learned counsel for the petitioner submits that the apex court, in the matter of *Roshan Deen Vs. Preeti Lal* (2002) 1 SCC 100 and *United India Insurance Co. Ltd. Vs. Rajendra Singh and Ors.* (2000) 3 SCC 581 held that the court can entertain the Writ Petition also.

4. It is to be noted that in the present proceedings initially an order was passed by the Commissioner for Workmen Compensation in WC application No.19/2012 on 09.03.2015 holding that the petitioners are liable to pay compensation

of Rs.6,59,850/- with 9% p.a. interest from the date of accident i.e. 17.01.2011 till the date of judgment plus medical expenses of Rs.40,000/- to the respondents or claimants. To review the said order, the petitioner filed Misc. Application (W.C.) No.34/2015, which was dismissed by the learned Commissioner. This itself shows that the order dated 22.06.2016 merges in the original order i.e. 09.03.2015.

5. As statutory appeal is provided under section 30 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, there is no question of entertaining the Writ Petition.

6. Hence, the Writ Petition stands rejected, as not maintainable.

JUDGE