

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION
WRIT PETITION NO. 14169 OF 2016

Mr. Nicholas John Martin

... Petitioner

Versus

M/s. Ocean Connect (I) Pvt. Ltd.

... Respondent

Mr. Vikas Shekdar for the Petitioner.

Mr. Varun Ohri instructed by M/s. D.M. Harish and Company for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 21st NOVEMBER, 2017

P.C.:

1. In Reference (IDA) No. 172 of 2012, an Award dated 2nd April, 2013 was passed by the Presiding Officer, First Labour Court, Pune. Since the said Award was passed ex-parte, the Respondent/Employer, M/s. Oceans Connect (I) Pvt. Ltd. moved an application dated 26th July, 2013 seeking restoration of Reference (IDA) No.172 of 2012. I am informed that the said restoration application was adjourned on 67 occasions and is now placed for final arguments on 7th December, 2017. The Respondent has filed a stay application but has till date not obtained stay qua the Award. In the meantime, on 11th August, 2015, the Respondent/Employee made an application before the Labour Court-1, Pune seeking directions against the employer to deposit full back wages in the Court on the ground that Mr. Sundeep Sethia, Director of the Company has stated verbally in Application (IDA) No.3 of 2013 before the Labour Court No.3 that he is going abroad for a long period and therefore, he

strongly apprehends that the Applicant (Employer) is likely to abscond and thereby cause severe legal complications as well as mental, physical and financial hardships to the Respondent. The Labour Court was correct in dismissing the said Application on the ground that the same is based on a mere apprehension. However, the Respondent/employee is certainly prejudiced since he is not able to enjoy the fruits of the Award passed in his favour as far back as in 2013, despite the said Award not being stayed till date by any court and the restoration application having been adjourned 67 times before the Labour Court, Pune. In order to ensure that no further prejudice is caused to the Respondent/employee, the following order is passed, by consent :-

- (a) The Labour Court No.1, Pune shall hear the parties in restoration application on the date already fixed for hearing that is on 7th December, 2017 and shall give its decision thereon on or before 15th December, 2017. If necessary the reference may be heard on day-to-day basis.
 - (b) The parties shall not seek any adjournment unless absolutely necessary. The Presiding Officer, Labour Court No.1, Pune shall also not adjourn the reference unless absolutely necessary.
 - (c) All contentions of the parties are kept open.
2. The above Writ Petition is accordingly disposed off.

(S.J.KATHAWALLA, J.)