

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

WRIT PETITION NO. 2087 OF 2018

Ankush Natha Kanade,
Age : 62 years, Occupation : Agriculturist,
R/o MIDC, Nimblak, Ahmednagar,
Taluka and District Ahmednagar.

...PETITIONER

-VERSUS-

1 Tanhaji Laxman Oval,
Age : 49 years, Occupation : Agriculturist,
R/o Antarwali, Post Kukana,
Taluka Newasa, District Ahmednagar.

2 The Assistant Commissioner of Labour,
Ashish Building, Sattha Colony,
Station Road, Ahmednagar.

3 The Collector, Ahmednagar.

4 The Tahsildar,
Tahsil Office, Newasa,
District Ahmednagar.

...RESPONDENTS

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Advocate for the Petitioner : Shri S.V.Natu h/f Shri Joshi Arvind Ramakant
and Shri V. P. Golewar.

Advocate for Respondent No.1 : Shri Parag V. Barde.
AGP for Respondents 2 to 4 : Shri S.R.Yadav Lonikar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st February, 2018

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the

consent of the parties.

2 The Petitioner is aggrieved by the order dated 28.07.2017 and the recovery certificate dated 04.08.2017 issued by the competent authority/ Respondent No.2 under Section 33-C(1) of the Industrial Disputes Act, 1947.

3 I have considered the strenuous submissions of the learned Advocates for the Petitioner, Respondent No.1 and the learned AGP on behalf of Respondent Nos.2 to 4.

4 The issue is as regards the outstanding wages at the rate of Rs.300/- per day as per the contention of Respondent No.1/ Workman. It is claimed that the amount of Rs.54,300/- towards unpaid daily wages of the Workman from September, 2010 to May, 2013 have been ordered to be paid vide the impugned order passed by Respondent No.2.

5 The grievance, however, is that the Petitioner was not heard by Respondent No.2 since the notices were issued on the address of the agricultural farm at village Antarwali, Post Kukana, Taluka Newasa, District Ahmednagar and the Petitioner resides at the address mentioned in the cause title of this petition. He was, therefore, deprived of an opportunity of hearing.

6 Shri Barde, learned Advocate for Respondent No.1/ Workman, strenuously opposes this petition by contending that though the Petitioner is residing in the MIDC area at Ahmednagar on account of his

business activities, he still owns the agricultural farm on which Respondent No.1 had worked. He has a continuous agricultural activity at the said farm and the notices were delivered to the representative of the Petitioner, who was residing on the farm premises.

7 In the alternative, Shri Barde submits that the entire amount assessed by Respondent No.2 be deposited before the said Authority and costs may be imposed if an opportunity of hearing is to be extended to the Petitioner.

8 Notwithstanding the strenuous submissions of Shri Barde and the fact that the notices were served upon the representative of the Petitioner, if the Petitioner is directed to deposit the assessed amount before Respondent No.2 so as to extend an opportunity of hearing to him, in my view, would meet the ends of justice. The amount on being deposited before Respondent No.2 would be secure and at the same time, a hearing to the Petitioner would be extended within a time frame. The rigours of litigation being suffered by Respondent No.1/ Workman, who is daily wager, can be countenanced and softened by imposing costs.

9 Considering the above, this Writ Petition is partly allowed with the following directions :-

- (a) The Petitioner shall deposit an amount of Rs.54,300/- (Rupees Fifty Four Thousand Three Hundred) before Respondent No.2 on or before 15.03.2018 and no extension

of time would be sought.

- (b) The Petitioner as well as Respondent No.1 would appear before Respondent No.2 on 15.03.2018 at 03:00 pm. Formal notices need not be issued by Respondent No.2.
- (c) The Petitioner shall deposit costs of Rs.2,500/- (Rupees Two Thousand Five Hundred) on or before 15.03.2018 before Respondent No.2 without seeking extension of time.
- (d) Respondent No.1/ Workman would withdraw the amount of costs of Rs.2500/- without conditions.
- (e) After the above directions are complied with, the impugned order dated 28.07.2017 and the recovery certificate dated 04.08.2017 shall stand set aside and the proceedings in Application (IDA) No.3/2014 filed by Respondent No.1 shall be restored to the file of Respondent No.2.
- (f) The Petitioner shall submit his Written Statement on or before 28.03.2018 before Respondent No.2 and shall not seek extension of time. Copy of the Written Statement would be served on Respondent No.1 simultaneously.
- (g) The Petitioner shall then proceed to cross-examine the witnesses of Respondent No.1 on 28.03.2018 and 06.04.2018, without seeking extension of time.
- (h) The Petitioner shall adduce evidence if so desired on such

dates on which Respondent No.2 would post the matter after 06.04.2018 and in any case, on or before 27.04.2018.

- (i) Respondent No.2 shall then conclude the proceedings and shall deliver a reasoned order on 01.06.2018 in his office where the hearing is scheduled, in the presence of the parties and copies of the said order would be made available to both parties on the same day.
- (j) Until the decision of Respondent No.2 on 01.06.2018, Respondent No.1 would be precluded from withdrawing the amount of Rs.54,300/-, which Respondent No.2 shall invest in the Fixed Deposit Receipt in any nationalized Bank at Ahmednagar for an initial period of three months.
- (k) Needless to state, in the event, Respondent No.1/ Workman succeeds in making out a case of recovery of amount, he shall then be permitted to withdraw the said assessed amount along with accrued interest.

10 Rule is made partly absolute in the above terms.