

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

WRIT PETITION NO. 142 OF 2018

DASHRATH SUKHDEO SHINDE
VERSUS
SUREKHA RAMDAS UNDRE AND OTHERS

...

Advocate for the Petitioner : Shri N.L.Dhoble and Shri R.C.Bora h/f Shri
Thorat Nanabhau R.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 01st November, 2018

Per Court:

1 I have considered the petition paper book, prayers made and the contention put forth in the petition that the proceedings under the Employees' Compensation Act (erstwhile the Workmen's Compensation Act, 1923) bearing WCA No.15/2013 are untenable.

2 Ex-facie, I am of the view that when the claim for compensation is put forth, the parties have to appear in the matter and proceed with the litigation. The claimant has lost the sole bread earner and these proceedings are pending from 2013. This writ petition is filed on 10.03.2017 and kept pending. Adjournments were sought on 26.06.2018 and again on 03.09.2018. Once again an adjournment was sought on 25.10.2018 and this Court (Coram : Manish Pitale, J.) granted

the last chance observing that if on the next date the matter is not argued, this petition would be dismissed.

3 Today, when the matter was called out in the first session, an adjournment was once again sought. When this Court indicated its disinclination, it was stated that the learned Advocate Mr.Thorat would appear after lunch. After lunch, another advocate appears and says that Mr.Thorat, learned Advocate, has proceeded out of station.

4 Rather than dismissing the petition in default, I have considered the claim application filed before the Employees Compensation Court by the original claimants. The widow, who is 23 years of age and her son, who was three years of age, have tried to make out a case of an accident that has occurred "out of and in the course of" employment of the deceased Ramdas. This Court cannot enter into the merits of the claim merely because the Petitioner has approached this Court with a plea that the proceedings are not maintainable. If that be the objection, it can be raised before the Compensation Court and such objections, which are normally aimed at delaying the matter, can be considered by the Compensation Court while deciding all the issues.

5 In view of the above, this Writ Petition is dismissed by imposing costs of Rs.10,000/- (Rupees Ten Thousand) on the Petitioner for wasting the time of the court in preferring a frivolous petition. The said amount shall be deposited before the Compensation Court in WCA

No.15/2013 on or before 07.12.2018, failing which, the Compensation Court may consider "striking off" the defence of this Petitioner. If the amount is deposited, the first Applicant widow shall withdraw the said amount without conditions.

kps

(RAVINDRA V. GHUGE, J.)