

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION***

WRIT PETITION NO.881 OF 2017

M/s Interem International Removals
Division of Freight Systems (India) Pvt.Ltd .. Petitioner

vs

Santosh B.Salekar & anr

.. Respondents

Mr.S.K.Talsania Sr.Advocate with
Mr.K.S.Bapat and Mr.Jayesh Desai
I/b Desai & Desai Associates for Petitioner
Ms.Jane Cox I/b Ms.Karishma Rao for Respondent no.1

Coram : S.C.GUPTE, J
Date : 12th JUNE 2018

P.C

1. This petition challenges a judgement and order passed by the Industrial Court at Mumbai in a complaint of unfair labour practice under item 3,9, and 10 of schedule IV of MRTU and PULP, Act 1971 concerning transfer. The complaint of the 1st respondent was allowed by the Industrial Court and his transfer was set aside.

2. It is agreed between the learned counsel for both parties that the impugned order of the tribunal can be set aside and the matter remanded to the Industrial Court for a fresh hearing in accordance with law. It is also agreed between counsel for both sides that oral and documentary evidence has already been fully led

before the Industrial Court and that the matter now pertains only to oral submissions of the parties.

3. In the premises, the writ petition is disposed of in terms of the following order :

ORDER

(i) The impugned order of the Industrial Court dated 7.5.2016 is quashed and set aside and the Complaint namely, Complaint (ULP) No. 55 of 2016, is remanded to the Industrial Court, Mumbai for a fresh hearing in accordance with law. The Industrial Court shall proceed on the footing that oral evidence has been fully led before it and allow the parties to make oral submissions for final hearing of the complaint. '

(ii) The parties shall be heard and the complaint shall be disposed of within a period of 12 weeks from today.

(iii) All rights and contentions of the parties on merits of the matter are kept open, including submissions on the issue as to whether or not the 1st respondent comes within the meaning of the term 'employee'.

(S.C.GUPTE, J)