

sg **IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.992 OF 2007

Mazdoor Congress ...Petitioner

vs

M/s. Bombay Potteries & Tiles Pvt. Ltd. ...Respondent

WITH

WRIT PETITION NO.2236 OF 2010

Bombay Potteries & Tiles Ltd. ...Petitioner

vs

Mazdoor Congress & Anr. ...Respondents

WITH

WRIT PETITION NO.2711 OF 2008

Mazdoor Congress ...Petitioner

vs

M/s. Bombay Potteries & Tiles Pvt.
Ltd. And 2 Others ...Respondents

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Mr. S.N. Deshpande, a/w. Ms. Swarna P. Munshi, for the Petitioner in WP/992/2007 and WP/2711/2008 and for Respondent No.1 in WP/2236/2010.

Mr. S.K. Talsania, Sr. Advocate, i/b. Mr. Shailesh More, for Respondent No.1 in WP/992/2007 and WP/2711/2008 and for the Petitioner in WP/2236/2010.

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CORAM : S.C. GUPTE, J.

DATED: JULY 13, 2018

P.C.:

. After the writ petitions are heard at length, and the Court is ready with the order, learned Counsel for both parties request the Court to pass an operative order without disclosing reasons. It is, accordingly, ordered as follows :-

- (i) The impugned order of the first Labour Court at Mumbai dated 9 April 2010 is quashed and set aside.
- (ii) The delay condonation application of the Petitioner(Original Applicant), being Application No.3 of 2007, is allowed.
- (iii) The impugned award dated 18 January 2006 is quashed and set aside and the reference is remanded to the Labour Court at Mumbai for a fresh hearing in accordance with law.
- (iv) The list of documents tendered by the Petitioner employer in Writ Petition No.2236 of 2010, containing 13 documents, is taken on record as documents of the Petitioner in Reference (IDA) No.716 of 1999. It is recorded that besides this documentary evidence, the Petitioner has no further evidence to lead in the reference. It is clarified that admission of these documents on record in the reference signifies the existence of the documents; and the legal validity as also the binding nature of the documents shall be a matter of contest to be decided by the reference Courts.
- (v) The Petitioner shall deposit a sum of Rs.1,03,20,000/- in this Court within eight weeks. The amount shall remain invested in fixed deposit/s by the Prothonotary and Senior Master of this Court, initially for a period of one year and renewable thereafter from time to time and to abide by orders that may be passed in Reference (IDA) No.716 of 1999 and in any further challenge from that order.

(vi) The Labour Court shall dispose of the reference as expeditiously as possible and in any event within a period of three months from today.

(vii) It is clarified that this order is passed only on the basis that the Petitioner employer was not heard when the award was declared. This Court makes it clear that it has not applied its mind to merits of either of the writ petitions placed before this Court.

(viii) Whilst hearing the reference and before passing the award, the Labour Court shall also hear the grievance of two employees, whose case is referred to in Writ Petition No.2711 of 2008, and decide the same as part of the reference.

(ix) All rights and contentions of the parties in respect of the entire controversy are kept open.

(x) All three petitions are disposed of in the above terms. No order as to costs.

(S.C. GUPTE, J.)

Smita
Johnson
Gonsalves

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by Smita
Johnson
Gonsalves
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