

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

927 WRIT PETITION NO.6217 OF 2015

M/S JAINEX AAMCOL TOOLS LTD,
AURANGABAD

.. Petitioner

VERSUS

SUNIL ARJUNRAO LOKHANDE

.. Respondent

...

Advocate for Petitioner : Shri Sachin V. Dankh

Advocate for Respondent : Shri S.S. Phatale

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CORAM : P.R. BORA, J.

Dated: July 30, 2019

PER COURT :-

1. The petition is heard finally with the consent of the learned counsel appearing for the parties.

2. The petitioner has questioned the Award passed by the Labour Court, Aurangabad in Reference (IDA) No.22 of 2007 on 12.09.2012 and the order passed by the said Court in Misc. Reference (IDA) No.06 of 2012 on 18.02.2015. It is the case of the petitioner that, in the reference application filed by the present respondent though the written statement was filed on behalf of the petitioner, the further proceedings were not attended on behalf of the petitioner. It is the contention of the petitioner that, the learned counsel, who was appearing in the said matter for the present petitioner, because of his own difficulties could not attend the said matter and no intimation in

that regard was given to the petitioner and hence, the petitioner also could not attend the said matter. In the circumstances, according to the learned counsel for the petitioner, the Award came to be passed in favour of the respondent, which has to be treated as an *ex-parte* Award. The learned counsel further submitted that, though Misc. Reference (IDA) No.06 of 2012 was filed with a prayer to decide the Reference IDA afresh by giving opportunity of hearing to the present petitioner, the same also came to be rejected and in the circumstances, the petitioner is constrained to file the present writ petition. The learned counsel for the petitioner further submitted that, since the petitioner did not get the opportunity to oppose the contentions raised by the respondent in Reference IDA and also did not get any opportunity to substantiate the plea raised by it in its written statement, the said opportunity needs to be given to meet the ends of justice. The learned counsel submitted that, the petitioner is ready to compensate the respondent by paying adequate cost therefor.

3. The learned counsel appearing for the respondent has opposed the submissions made on behalf of the petitioner. The learned counsel submitted that, despite availing due opportunities before the Labour Court since the petitioner did not participate in the proceedings and did not remain present in the matter on the given
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dates, the learned Labour Court was constrained to pass the award on the basis of the evidence, which was adduced before it. The learned counsel submitted that, the petitioner has been noticed to be negligent throughout and in such circumstances, no leniency is liable to be shown to the petitioner. The learned counsel further submitted that, even otherwise the Labour Court has decided the reference application on merits, which does not require any interference. In the alternate, the learned counsel submitted that, if at all this Court inclines to remit the matter to the Labour Court for deciding it afresh, the respondent be compensated by awarding exemplary cost. The learned counsel has prayed for the cost of Rs.1,00,000/- having regard to the fact that the dispute is pending for about 12 years. In so far as the award of cost is concerned, the learned counsel has relied upon two judgments of this Court, one in Writ Petition No.7269 of 2011 and another in Writ Petition No.6217 of 2015.

4. After having considered the submissions and after having gone through the impugned orders and other material placed on record, it is apparent that, whatsoever may be the reasons, the petitioner could not contest the matter on merits. The reasons, as are stated by the petitioner cannot be outrightly rejected. In the circumstances, it appears to me that, the opportunity needs to be given to the petitioner to defend its case and to substantiate the
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contentions raised in its written statement and also to rebut the contentions raised on behalf of the respondent in the reference before the Labour Court. It is true that, the Award of the Labour Court is of the year 2012. In the circumstances, adequate cost needs to be awarded as has been contended by the learned counsel for the respondent. It appears to me that, the cost of Rs.50,000/- will be the adequate cost in the present matter.

5. The parties shall appear before the Labour Court on 22.08.2019 and from the said date, the Labour Court shall decide the Reference (IDA) No.22 of 2007 as far as possible within the period of six months by giving due opportunity of hearing to the parties concerned.

6. The cost is to be deposited by the present petitioner on or before the said date before the Labour Court and on deposit of such cost, the Labour Court shall permit the respondent to withdraw the same.

7. With the order as above, the Writ Petition stands disposed of.

(PR. BORA, J.)

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