

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8341 OF 2019

The Chairman,
Indreshwar Sugar Mills Ltd,
Bhagwant Nagar, Uplai (Thonge),
Tq.Barshi, District Solapur
and another

Petitioners

Versus

Vasant Mahadeo Walhekar & others

Respondents

Mr.N.K.Chaudhari, Advocate for the petitioners.

WITH
WRIT PETITION NO.8342 OF 2019

The Executive Director,
Indreshwar Sugar Mills Ltd,
Bhagwant Nagar, Uplai (Thonge),
Tq.Barshi, District Solapur
and another

Petitioners

Versus

Smt.Anusaya Bappa Gunjal & others

Respondents

Mr.N.K.Chaudhari, Advocate for the petitioners.
Mr.Amol R. Gaikwad, Advocate for Respondents No.1 to 5.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 10/07/2019

PER COURT :

1 Though the Respondent-parties in both these matters are different, I am hearing both these petitions together since an identical issue is involved in both these matters and more so since the issue is extremely of a technical nature.

2 The petitioners-Sugar factory, which is the same in both these petitions, is aggrieved by the order dated 14.12.2018, (W.P.No.8341 of 2019) and the order dated 19.12.2018, (W.P.No.8342 of 2019), by which, the Workmen's Compensation Court under the Employees' Compensation Act, 1923, has exercised powers under Section 152 of the Code of Civil Procedure for correcting the name of the petitioner so as to avoid further complications.

3 The learned Advocate for the petitioner-factory has strenuously criticised the impugned order. He has drawn my attention to the grounds formulated in the memo of the petitions and has relied upon the judgment of the Hon'ble Apex Court in the matter of **Jayalakshmi Coelho Vs. Oswald Joseph Coelho**, (2001) 4 SCC 181.

4 Having considered the submissions and having perused the petitions-paper books, I find that in both these petitions, the petitioner was an Opponent No.1 in the claims lodged before the Commissioner of Workmen's Compensation, Beed. There is no reason for going into the other facts of the case. Suffice it to say that in both such proceedings, wherein the claimants had claimed compensation under the Employees' Compensation Act, 1923, the concerned Employees' Workmen's Compensation Court had allowed the proceedings by judgment dated 07.10.2015 in Workmen's Compensation Petition No.11 of 2013 and judgment dated 23.08.2017 delivered in Workmen's Compensation Petition No.19 of 2015.

5 It is undisputed that the name of the petitioner, which is actually, "Indreshwar Sugar Mills Pvt. Ltd." was erroneously typed as "Indreshwar Sahakari Sakhar Karkhana". It is equally undisputed that there is no such factory by name "Indreshwar Sahakari Sakhar Karkhana" and it is the same petitioner-factory, which is Indreshwar Sugar Mills Ltd.. It appears that the claimants, who are the persons from rural areas and are labourers, have arrayed the petitioner under the translated name in Marathi instead of the English name Indreshwar Sugar Mills Pvt. Ltd.

6 The only error is by the use of the word “*Sahakari*”, which means Co-operative. If this one word is removed from the description of the petitioner in the original proceedings, the name of the petitioner would be same as is the name appearing in the Marathi version before the trial Court. This was noticed in the execution proceedings, because the bailiff report indicated that there is no such factory by its name in Marathi. Therefore, the claimants rushed back to the Workmen's Compensation Court and sought a correction under Section 152 of the Code of Civil Procedure.

7 The learned Advocate for the petitioner has strenuously canvassed that in these circumstances, the entire proceedings will have to be nullified and a re-trial of the matter shall have to be ordered.

8 I find both these cases to be an example of a mistake committed by an advocate in translating the English name of the petitioner into its Marathi version and mistakenly adding the word “*Sahakari*”. However, it cannot be ignored that it is the petitioner itself, which wholeheartedly participated in the proceedings before the trial Court and has opposed the claim petitions tooth and nail with full involvement.

9 Considering the above, if the submissions of the petitioners are accepted and the entire proceedings are nullified merely because of the above stated minor error, in my view, would not only amount to injustice, but would cause travesty of justice. Section 152 of the Code of Civil Procedure, does empower the same Court to correct such a mistake, which is undoubtedly on the basis of an accidental slip on the part of the claimants, which can be corrected by the Court, either on its own motion or on the basis of an application by any of the parties.

10 The original claimants, who are living in abject poverty being labourers, have lost their sole bread earner. They should not be made to suffer on account of such a mistake. I find that the trial Court has rightly exercised its jurisdiction. The justice delivery system is expected to act in a pragmatic manner in such circumstances rather than adopting a pedantic approach.

11 In view of the above, both these petitions are dismissed.

(RAVINDRA V. GHUGE, J.)