

Assumpta

IN THE HIGH COURT OF BOMBAY AT GOA

WP NO.636 OF 2019

1. Parshuram Donkannawar,
2. Govind Harijan,
3. Navdeep Sawal,
4. Sunil Devidas,
5. Siddesh Mandrekar,
6. Tushar Borkar,
7. Anand Naik,
8. Atish Satarkar,
9. Dattaram Morajkar,
10. Prashant Velip,
11. Sanjay Gaude,
12. Suraj Naik,
13. Anand Gaonkar,
14. Derrick Quadros,
15. Sumith Naik,

16. Abdul Khadir Savanur,
17. Dinanath Gaonkar,
18. Anand Shetkar,
19. Sankalp Nagvenkar,
20. Swapnil Achari,
21. Vinod Raikar,
22. Viplav Vasta,
23. Avdut Samant,
24. Deepak Chodankar,
25. Kiran Naik,
26. Srikanta Karmakar,
27. Rajesh Raut,
28. Sanjay Redkar,
29. Sumanta Karmakar,
30. S.K. Sakir H. Mohammed,
31. Suresh G. Mhalsekar,
32. Siddesh Chari,

33. Yogesh Shinde,
34. Prashant Karmakar,
35. Aashish Shetgaonkar,
36. Sachin Stardekar,
37. Nilesh Sawant,
38. Kashinath Jamuni,
39. Mahadev Dhoble,
40. Caitano Barreto,
41. Arvind Narvekar,
42. Anthony Fernandes,
43. Sakharam Gad,
44. Nitesh Narendra Tari,
45. Goraknath Dharagalkar,
46. Kiran Gadekar,

Workmen, through their registered
trade union:

Gomantak Mazdoor Sangh,
through its General Secretary,
Mr. Puti Gaonkar,
G5, Machado Appts.,

Ponda-Tisk, Ponda-Goa.

.... Petitioners

V/s.

1. State of Goa,
through the Secretary,
Secretariat, Porvorim - Goa.
2. Office of the Commissioner,
(Labour & Employment)
Government of Goa,
Shram Shakti Bhavan,
2nd Floor, Patto Plaza,
Panaji – Goa – 403 001.
3. Office of the Mamlatdar of Tiwadi
Taluka, Panaji - Goa.
4. Office of the Collector (Revenue)
- North Goa, Collectorate - North Goa,
Panaji - Goa.
5. Chowgule Industries Pvt. Ltd.,
through its Director:
Smt. Padma Chowgule,
Head Office at:
Campal, Panaji – Goa.

.... Respondents

Mr. Shivraj Gaonkar, Advocates for the Petitioners.

Mr. Vishwadh Sardesai, Additional Government Advocate for the
Respondents no.1 to 4.

Mr. S.S. Kantak, Senior Advocate with Mr. Preetam Talaulikar and Mr. Rajesh Kinnerkar, Advocates for the Respondent no.5.

**Coram : M. S. SONAK &
NUTAN D. SARDESSAI, JJ.**

Date : 23rd August, 2019.

Oral Judgment: (Per M.S. Sonak, J.)

Heard Mr. Shivraj Gaonkar, the learned Counsel for the petitioners. Mr. Vishwadh Sardesai, Additional Government Advocate for the respondents no.1, 2, 3 and 4. Mr S. S. Kantak, the learned Senior Counsel along with Mr. Preetam Talaulikar and Mr. Rajesh Kinnerkar, the learned Counsels for the respondent no. 5.

2. Rule. Rule is made returnable forthwith, at the request of and with consent of the learned Counsel for the parties.

3. The main grievance in this Writ Petition instituted by the workmen of the respondent no.5 is that the respondents no.1 to 4 are not taking effective steps to enforce their own Recovery Certificate in pursuant of the Industrial Tribunal Award dated 13/7/2015 made under Clause (d) of Sub Section (1) of Section 10 of the Industrial Disputes Act, 1947.

4. The record indicates that the Recovery Certificate was challenged by the respondent no.5 by instituting Writ Petition no.367/2018 before this Court. In this Writ Petition by order dated 26th March, 2018 interim relief was granted restraining further recovery proceedings subject to the respondent no.5 furnishing a Bank Guarantee to secure 50% of the amount sought to be claimed by the Recovery Certificate. Mr Kantak, the learned Senior Counsel for the respondent no.5 points out that such Bank Guarantee was in fact furnished and the same is alive up to 2020.

5. Mr. Kantak, the learned Senior Counsel points out that the Writ Petition no.367/2018 was ultimately dismissed by Order dated 29th October, 2018. However this Court extended stay for a period of six weeks from the said date. The respondent no. 5 thereupon instituted a Review Petition bearing no.34/2018 and in the Review Petition the interim relief has been further extended. This means that as on date there is stay upon the respondents no.1 to 4 proceeding with the recovery in pursuant to the Recovery Certificate.

6. At least 50% of the amount in terms of the Recovery Certificate is secured by the Bank Guarantee furnished by the respondent no.5. Mr. Kantak, the learned Senior Counsel further points out that during the interregnum when there was no stay the respondents no.1 to 4 have already attached 18 cars valued at approximately 1.2 crores belonging to the respondent no.5. He

submits that this attachment already continues.

7. Mr Gaonkar, the learned Counsel for the petitioner contends that for a period of almost 9 months there was no stay in operation and hence directed action in the matter. Be that as it may, today the position is that there is a stay in operation. Besides, as pointed out earlier the respondents no.1 to 4 in the interregnum have proceeded to attach the vehicles of the respondent no. 5. Accordingly, no useful purpose will be served by retaining this petition on our file.

8. Mr. Vishwadh Sardesai, the learned Additional Government Advocate for the respondents no.1 to 4 states that in case the interim order is vacated or the review is dismissed, the respondents no.1 to 4 will take all steps in terms of law to execute the Recovery Certificate, including but not restricted in seeking the encashment of the Bank Guarantee, the sale of the attached vehicles or such other action as is permissible under the law. According to us, this statement which is now accepted by us, substantially redresses the grievances of the petitioners.

9. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

10. All concerned to act on the basis of an authenticated

copy of the order.

NUTAN D. SARDESSAI, J. *M. S. SONAK, J.*
*af**