

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO.862 OF 2019

Mr. Yoseph Tatoba Gholap

..Petitioner

Versus

Debts Recovery Tribunal, Pune & Ors.

..Respondents

Mr. V. V. Chandavale, Advocate for the Petitioner.

Mr. Varun Prakash i/by Singhi & Co., Advocate for Respondent No.6  
- Bank.

Mr. G. R. Dwivedi a/w Mr. M. M. Chunawala, Advocates for  
Respondent No.8.

CORAM : PRADEEP NANDRAJOG, C.J. &  
SMT. BHARATI DANGRE, J.

DATE : 18<sup>th</sup> DECEMBER, 2019

P.C.

1] Dues of the workmen ranking *pari pasu* with the dues of the secured creditor and the asset of the companies where the employees were working being sold by the Recovery Officer apportionment issue landed up in the lap of the Debts Recovery Tribunal. The workmen filed Misc. Application No.69 of 2006 before the DRT. Vide order dated 12.03.2007 following the law declared by this Court in the judgment pronounced in a Writ Petition filed by one Pandurang Keshav Gorwardkar, learned DRT granted only 12.15% of the claim made by the workmen against which the workmen filed an Appeal before the learned DRAT which permitted

the workmen to withdraw the Appeal and directly approach the Supreme Court on account of the fact that the decision of this Court in Pandurang Keshav Gorwardkar was pending consideration before the Supreme Court in Civil Appeal No.7045 of 2005.

2] The Supreme Court disposed of the said Civil Appeal on 07.05.2013 and the Civil Application filed by the workmen was also disposed of which led the workmen to approach the learned Debts Recovery Tribunal praying that Misc. Application No.69 of 2006 filed by the workmen be revived and re-decided keeping in view the law declared by the Supreme Court. The workmen faced a problem. In view of the rules of the Debts Recovery Tribunal part B, C and D of the files had been destroyed for the reason they had to be retained only for a period of five years. The Misc. Application filed by the workmen came to be destroyed. The Debts Recovery Tribunal called upon the workmen to file Misc. Application.

3] The workmen filed Misc. Application in which verbatim they reproduced the pleadings in Misc. Application No.69 of 2006. The said application was registered as Misc. Application No.45 of 2014. Vide order dated 22.09.2015 learned DRT directed the workmen to approach the Recovery Officer. The grievance of the Petitioner starts at this stage. Vide order dated 24.10.2016 the Recovery Officer held that he had no authority to decide Misc. Application No.69 of 2006.

4] The workmen filed an Appeal against the said order passed by the Recovery Officer and the grievance is that the said Appeal is not being registered, much less entertained on account of the fact that the Presiding Officer of the Debts Recovery Tribunal requires the workmen to pay court fees at ₹ 250/- each.

5] In our opinion, there is no necessity for the workmen to file any appeal for the reason Misc. Application No.69 of 2006 filed by the workmen on being revived by the Supreme Court requires to be adjudicated afresh . Said Misc. Application No.69 of 2006 was filed before the Debts Recovery Tribunal and was adjudicated upon by the Debts Recovery Tribunal.

6] Thus, we dispose of the Petition directing the Presiding Officer of the Debts Recovery Tribunal, Pune to re-decide Misc. Application No.69 of 2006. Since the record has been destroyed, the Debts Recovery Tribunal shall take cognizance of the fact that pleadings in Misc. Application No.69 of 2006 have been verbatim reproduced in Misc. Application No.45 of 2014.

7] Needful shall be done by the Debts Recovery Tribunal, Pune within six months of the receipt of the authenticated copy of the present order.

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G.  
Panchal  
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signed by  
Balaji G.  
Panchal  
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**SMT. BHARATI DANGRE, J**

**CHIEF JUSTICE**