

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1000 OF 2017

SKS Fasteners Ltd. through its Director
Vinodkumar Vimalchand Jain ... Petitioner
Vs.
Ashok Shyamrao Mirekar ... Respondent

Mr. N. P. Mule for Petitioner.
Mr. Suryajeet P. Chavan i/b. Mr. Ravi Shinde for Respondent.

CORAM : UJJAL BHUYAN, J.
DATE : OCTOBER 07, 2019

P.C. :

Heard Mr. Mule, learned counsel for the petitioner and Mr. Chavan, learned counsel for the respondent.

2. This Petition has been filed under Article 227 of the Constitution of India assailing legality and correctness of order dated 01.12.2016 passed by Labour Court No.2, Pune in ECA No.102-C-20/2015 (*Ashok Shamrao Mirekar Vs. M/s. SKS Fasteners Ltd.*).

3. Respondent has filed an application before the Labour Court No.2, Pune (Labour Court) seeking compensation with interest and penalty along with medical expenses from the petitioner under the Workmen's Compensation Act, 1923.

4. Parties had appeared before the Labour Court and filed written statements. Petitioner also filed application for framing preliminary issue as to maintainability of the compensation application.

5. Labour Court passed order on 05.04.2016 holding that all issues will be decided together and accordingly framed issues whereafter, parties had led evidence.

6. Respondent had filed photocopies of certain documents and thereafter filed application dated 21.09.2016 for directing the petitioner to produce originals of those documents.

7. After hearing the matter, learned Labour Court passed the impugned order dated 01.12.2016 allowing the respondent to adduce secondary evidence of those documents subject to proof of genuineness. It is against this order, the present Petition is filed.

8. Submissions made by learned counsel for the parties have been considered. Learned counsel for the petitioner has relied upon a decision of the Supreme Court in ***J. Yashoda Vs. K. Shobha Rani, (2007) 5 SCC 730***, which has been considered.

9. To appreciate the controversy, it would be apposite to bear in mind that the proceeding before the Labour Court is under the Workmen's Compensation Act, which is a social welfare legislation for benefit of the workmen.

10. The Labour Court is in *seisin* of the matter. All that the Labour Court had directed by the impugned order was to allow the respondent to adduce secondary evidence of the documents relied upon while observing that genuineness of the photocopies could not be determined at that stage. Such secondary evidence would be taken into consideration subject to genuineness of the documents. Relevant portion of the order dated 01.12.2016 is extracted hereunder:

“5] In the present case, it is case of opponent that it has never given any photo copy of vouchers to applicant and it has not made payment of wages through voucher to applicant. At this stage genuineness of said photo copies cannot be determined. Thus in the facts and circumstances it is desirable to allow applicant to adduce secondary evidence of said documents and said document will be admissible as secondary evidence if it is proved to be genuine.”

11. In **J. Yashoda** (*supra*), Supreme Court had examined the issue relating to applicability of secondary evidence.

12. In the present case all that the Labour Court had done was to allow the prayer of the workman to adduce secondary evidence of the documents relied upon subject to its genuineness. The claim to compensation is still pending before the Labour Court and yet to be finally decided.

13. As it is, petitioner cannot be said to be prejudiced in any manner by the impugned order since it would be open to the petitioner to question the genuineness of the documents at the stage of cross-examination.

14. Interference by the Court at the interlocutory stage is to be avoided. No case for interference is made out.

15. Accordingly, this Petition is dismissed.

(UJJAL BHUYAN, J.)

Minal Parab