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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION (STAMP) NO.33798 OF 2018
IN
WRIT PETITION NO.844 OF 2004
WITH
WRIT PETITION NO.844 OF 2004

The Executive Engineer, Z.P. Nashik	...Applicant/Petitioner
vs	
Bhagwat Sadashiv Gharate (Since Deceased)	
Through LRS.	...Respondents

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Mr. Ashwinikumar R. Kapadnis, for the Petitioner/Applicant.

Mr. Yogendra M. Pendse, for Respondent Nos. 1 and 2.

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CORAM : S.C. GUPTE, J.

DATED: 12 DECEMBER, 2019

P.C.:

. This civil application is filed by the original Petitioner, who has challenged an award of a Labour Court in favour of the predecessors of the two Respondents herein. The award was for quashing of a termination order and payment of back wages together with terminal benefits to the employees, who had since deceased. Non-payment of the awarded back wages and terminal benefits led to the filing of a complaint of unfair labour practice on the part of the Respondents. The Industrial Court at Nashik allowed that complaint and directed the Applicant herein to implead the award passed in the reference. Non-impleadment of this order led this criminal (ULP) complaint. The

award, as noted above, is the subject matter of challenge in the present writ petition. Pending such challenge, the Applicant (original Petitioner) seeks a stay of prosecution of the criminal (ULP) complaint pending before the Labour Court at Nashik. It is submitted that the Applicant has already deposited/paid the amounts due to the Respondents' predecessors, both in terms of back wages and also of terminal benefits. The Respondents do not accept this position. According to the Respondents, having regard to the years of service, for which continuity was ordered by the Labour Court in its original award, appropriate benefits have not been extended by the Applicant herein.

2. This Court is of the view that since the petition itself is now ripe for hearing, the hearing of the civil application may be deferred till the hearing of the writ petition and the petition may be taken up for hearing on an expeditious basis and, in the meantime, the criminal complaint against the Applicant herein may not be proceeded with.

3. Accordingly, the civil application is directed to be heard along with the writ petition. The writ petition to come up for hearing in the weekly hearing list of 16 December 2019. In the meantime, pending hearing of the writ petition, Miscellaneous Criminal (ULP) Complaint No.11 of 2017, pending on the file of the Labour Court at Nashik, shall not be proceeded with. The Respondents are permitted to withdraw the amounts deposited by the Applicant before the Labour Court at Nashik. All concerned to act on the authenticated copy of this order.

(S.C. GUPTE, J.)