

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION***

WRIT PETITION NO. 9102 OF 2014

M/s. Mukund Ltd.

... Petitioner

V/s.

Ram Damodar Kale and Ors.

... Respondent

Mr. Rahul Oak for the Petitioner

Mr. Rahul Nerlekar for Respondent No.2

***CORAM : NITIN JAMDAR &
M.S. KARNIK, JJ.***

DATE : 5 FEBRUARY 2020.

P.C. :-

By this Petition the Petitioner has challenged the order passed under Section 33-C (1) of the Industrial Disputes Act, 1947.

2. The Respondent – workman had filed an application on 27 December 2012 for recovery of balance amount of Rs.3,75,000/-. The Respondent – workman had filed a Reference (IDA) No. 179 of 1999 has led to the impugned order. This arose because the Respondent – workman had approached the Labour Court and an

Award was made in his favour whereby the Respondent – workman was directed to be paid compensation of Rs.5,00,000/- in view of his reinstatement. Since an amount of Rs.1,25,000/- was stated to have been paid, the Respondent – workman filed an application for recovery of balance amount of Rs.3,75,000/-. The Commissioner of Labour, by impugned order dated 17 September 2014 has directed the Petitioner to pay the balance amount of Rs.3,75,000/-. The learned Counsel for the Petitioner submitted that even though there was an Award in favour of Respondent – workman of Rs.5,00,000/-, he accepted the amount of Rs.1,25,000/- as full and final settlement and therefore, he could not have asked for the balance amount of Rs.3,75,000/-. He submitted that the settlement was in writing and signed by the Respondent – workman. It was further contended that the finding of the Commissioner that the Award once published cannot be modified, is not legal and proper.

3. We are considering the challenge of the Petitioner in equity jurisdiction of this Court. It is not in dispute that there was an Award of Rs.5,00,000/- in favour of the workman. The Commissioner of Labour taken note of the contention of the Respondent – workman that he had not volunteered to sign the settlement and his signature was taken. We note that the settlement was in English where the Respondent – workman has signed in Marathi and no reason is given in the said settlement or in the

Petition as to why a workman when entitled to Rs.5,00,000/- would forego 75% of the amount. This will go against a normal human conduct. If the Commissioner of Labour in these circumstances has found it fit to direct the Petitioner to pay the balance amount, we are not inclined to interfere with these directions. The inference drawn by the Commissioner of Labour is a plausible one.

4. The Writ Petition is rejected.

M.S. KARNIK, J.

NITIN JAMDAR, J.

**Jyoti P.
Pawar**

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by Jyoti P.
Pawar
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