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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2482 OF 2021
WITH
INTERIM APPLICATION NO.468 OF 2021
IN
WRIT PETITION NO.2482 OF 2021**

NANASAHEB NARHARI SAKHARE & ORS. ...PETITIONERS
VS.

SHRI ADINATH SAHAKARI SAKHAR KARKHANA
LTD. & ORS. ...RESPONDENTS

Mr. Ashok B. Tajane for the petitioners/applicants.

Mr. V.S. Kapse i/b. Shailesh Chavan for respondent No.1.

Ms. Preeti Walimbe for respondent No.3 – MSC Bank.

CORAM : M.S.KARNIK, J.

DATE : JULY 14, 2021

(THROUGH V.C.)

P.C.

Heard learned counsel for the petitioners.

2. The petitioners are the workmen in respect of respondent No.1 – Sugar Factory. The respondent No.1 filed a complaint of unfair labour practices before the Industrial Court being Complaint ULP No. 22/2020. An application for interim injunction at Exhibit C-2 was filed in the complaint by respondent No.1.

3. Briefly stated it is the case of respondent No.1 before the Industrial Court that the workmen are obstructing the transportation of sugar from the factory and threatening other

workers and thus, are supporting and instigating the proposed illegal strike. Further reliefs are sought that the workmen be restrained from obstructing the delivery of sugar which will be sold in future. Respondent No. 1- Sugar Factory prayed for interim reliefs.

4. The Industrial Court by the impugned order granted interim reliefs in favour of respondent No.1 – Sugar Factory in terms of prayer Clauses (b) and (d) of the application Exhibit C-2 which read thus :

“(b) The respondents be restrained from obstructing the truck and delivery of the sugar which will be sold in future, so also loading and unloading of sugar and its delivery to the traders, and day to day business of the complainant so also not to obstruct to start the present season of the complainant ;

(d) They be further directed not to indulge in acts of force or violence or to hold out threats of intimidation in connection with workers those have intention to do the work for present season and pre season work till disposal of the complaint.”

5. In the challenge to the impugned order, Shri Tajane submitted that the Maharashtra State Co-operative Bank Ltd. (‘the bank’ for short) which is secured creditor is about to auction the sugar and therefore should be made a party in the present Writ Petition. The bank is not a party in the complaint before the Industrial Court. It is the submission of Shri Tajane that in the event the bank is allowed to auction the sugar, then interest of the petitioners who are claiming arrears of the wages will be

jeopardised. Shri Tajane submits that arrears of wages of the workmen run into almost Rs.100 crores and therefore the Industrial Court ought not to have granted the interim reliefs and in fact the injunction against the bank is necessary in the present Petition. According to him, if at all the interim reliefs were to be granted, then in that case, the Industrial Court should have protected the interest of the workmen. Shri Tajane requested that the bank be permitted to be impleaded as a party respondent in this Petition. He further submits that though the bank was not a party to the proceeding before the Industrial Court, still then while granting the interim reliefs, the Court made observations in favour of the bank which is to the detriment of the workmen.

6. I have heard learned counsel appearing on behalf of the parties and also learned counsel appearing on behalf of the bank. Learned counsel opposed the request for impleadment of the bank in this Petition.

7. I have gone through the detailed order passed by the Industrial Court. There is no dispute that the bank is one of the secured creditors in respect of the goods, movable and immovable properties of the sugar factory. It further appears that substantial dues of the workmen remain to be paid by the sugar factory. I have been informed and as it can be seen from the record, the petitioners and other workmen have initiated appropriate proceedings for recovery of their dues before the Industrial Court

by filing complaint ULP No. 61 of 2019 and 62 of 2019. I am also informed that various other proceedings are filed by the workmen for recovery of their dues and for other reliefs.

8. In this Petition Shri Tajane is primarily concerned with the impugned order passed by the Industrial Court and his objection to the bank or the sugar factory proceeding to auction the sugar stock. He apprehends that the sale proceeds would be appropriated towards the recovery of the default of loan, thereby leaving the workers high and dry. Counsel on behalf of the sugar factory states that in terms of the order passed by the Industrial Court, the sugar has been auctioned and the amount has been distributed in terms of the observations made by the Industrial Court.

9. Perusal of the order passed by the Industrial Court reveals that not only the Industrial Court tried to protect the interest of the workmen, but has proceeded to observe that as a secured creditor, the bank is obviously taking steps for realising the outstanding loan amount in respect of the default committed by the sugar factory. The Industrial Court has further observed that as per the Payment of Wages Act, salaries of the employees should be regularly paid. The bank has initiated proceedings under the SARFAESI. A perusal of the impugned order would reveal that with a view to protect the interest of the workers and ensure that the sugar factory is not attached and sold by the bank, to realise the outstanding loan

amounts, the auction of sugar is necessiated. The Industrial Court has observed that it is in the best interest of all the concerned parties that the sugar factory should restart and provide employment and salaries to the workers who are now unemployed.

10. It is always open for the petitioners to pursue the complaint of unfair labour practices and other proceedings initiated by them for recovery of arrears of wages against the sugar factory. In the interest of justice, the Industrial Court and the concerned authorities are requested to consider the case of the petitioners expeditiously as it concerns recovery of unpaid wages. The workers undoubtedly have a right and claim as against the sugar factory for recovery of the arrears of the wages. The sugar factory has defaulted in payments of the loan and hence the secured creditor (Bank) has initiated steps under SARFAESI Act and other proceedings for recovery. The bank was not a party before the Industrial Court. I am therefore not inclined to implead the bank as a party in this proceeding as requested by the petitioners. The application for impleadment is rejected. It is for the petitioners to approach the Industrial Court in the first instance requesting for impleadment of the bank and such other reliefs, which application shall be decided on its own merits and without being influenced by the observations made in this order. It is for the Industrial Court to deal with the objection, if raised, regarding the tenability of such application.

11. I see no reason to interfere with the impugned order as the same is a well reasoned order and which does not suffer from any infirmity or perversity.

12. The Industrial Court is requested to consider the request made by the petitioners for expeditious disposal of recovery proceedings (Complaint ULP 61/19, 62/19) sympathetically.

13. It is made clear that all other proceedings initiated by the parties will be decided on its own merits and in accordance with law.

14. The Writ Petition is disposed of.

15. In view of the disposal of the Writ Petition, Interim Application is also disposed of.

(M.S.KARNIK, J.)