

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

951 WRIT PETITION NO.4610 OF 2019
WITH CA/3627/2020 IN WP/4610/2019

PANTHAR POWER KAMGAR SANGHATHANA THROUGH SECRETGARY
AND OTHERS

VERSUS

GLEITLAGER INDIA LIMITED AND OTHERS

...

Advocate for Petitioners : Mr. J.N. Singh

Advocate for Respondents 1 & 2 : Mr. Amol Gandhi h/f. Mr. P.S. Mehta

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CORAM : SMT. BHARATI H. DANGRE, J.

DATED : 09/02/2022

PER COURT :

1. Heard the learned counsel for petitioners and the counsel for the respondents.

2. Petitioner No. 1 is the Union of employees and respondent No. 1 is the company. On being aggrieved by the lock out notice by the company, the Union had approached the Industrial Court by filing Complaint ULP No. 245/2002 and succeeded before the said Court, as on 17.11.2004, the complaint filed by Union was allowed and lock out was declared as illegal, with direction to respondent company to withdraw the lock out notice and pay the wages.

This order was assailed by the company in Writ Petition No.7476/2004 filed before this Court which was admitted and interim

relief was granted. In the year 2006 interim relief was not continued and the petition is pending for adjudication before this Court.

3. During the pendency of this petition the company was closed down and the respondent No.2 - bank initiated proceedings against the company respondent No. 1 for recovery of loan under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act). This resulted in taking over the assets of company by the Canara Bank and disposing of the same to realize it's dues and the property of the company was sold out to private entity on 28.4.2007.

4. The workers of the Union, unaware of the said development, were waiting for their dues, under the directions of Industrial Court since Complaint ULP No. 245/2002 filed by Union was allowed and lock out notice was declared illegal, they moved an application under section 33 (C)(2) of Industrial Disputes Act, 1947 ('ID Act' for short) for recovery of their legitimate dues.

In this proceedings they moved an application by invoking Order 1 Rule 10(2) of Civil Procedure Code, seeking impleadment of Canara Bank, Shri Hari Associates Pvt. Ltd. and Managing Director of HDIL as necessary party. The learned Labour Court by order dated 19.12.2018 rejected the said application and in my considered opinion

rightly so.

The application to be filed under section 33-C (2) is for recovery of money due from the employer and the said provision which find place in Chapter VII of ID Act 1947 can be invoked where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA or Chapter VB and on an application being made for recovery of the money due if the Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

5. Pertinent to note that provision of section 33-C (2) of the Act can be invoked by the workman if any money is due to the employer. As far as impleadment of new parties i.e. bank, the subsequent purchaser who has purchased the property of the respondent No. 1 company from the Bank in proceedings instituted under SARFAESI Act is concerned, are not necessary party for the purpose of adjudication of application under section 33-C (2). Canara Bank has taken possession of the property of respondent No. 1 company under section 13 of SARFAESI Act and it has auctioned the property which was purchased by respondent No. 4 and it was sold subsequently to respondent No. 5. The respondent Nos. 4 and 5 are

bonafide purchasers of the property auctioned by the bank for recovery. The provision under section 33-C (2) do not contemplate adjudication of the rights of the employees qua the bank or the subsequent purchasers of the property of the company, which is employer of the applicants who had moved an application for recovery of their dues.

The application has been rightly rejected by the learned Labour Court on 19.12.2018. Accordingly, the impugned order is upheld and the writ petition is dismissed.

[SMT. BHARATI H. DANGRE, J.]

ssc/