

PMB

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

**WRIT PETITION NO.13247 OF 2022**

M/s. Procter and Gamble Health Limited ..Petitioner  
VS.  
Sadhana R. Pote and ors. ..Respondents

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Mr. R. N. Shah a/w Mr. P. N. Shah a/w Mr. Jay Vora for  
petitioner.  
Mr. Yogendra Pendse for respondent nos.4, 11, 13, 14, 17,  
18, 20 and 21.  
Mr. Avinash K. Jalisatgi a/w Mr. Siddhesh S. Shetye for  
respondent nos.2 and 9.  
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**CORAM : M. S. KARNIK, J.**

**DATE : NOVEMBER 16, 2022.**

**P.C. :**

1. Heard learned counsel for the parties.
2. It is the contention of learned counsel for the petitioner-employer that instead of the Labour Court directing the employer to deposit 30% of the amount of the wages as determined by the Labour Court in the order which was passed ex-parte, the employer be permitted to secure the claim by way of a bank guarantee. It is the contention of the employer that the respondents-employees

were previously working with Emerck Company which merged with the petitioner-Company in the year 2018. The employees had filed proceedings before the Labour Court under Section 33C(2) of the Industrial Disputes Act, 1947 (hereafter "the said Act", for short) and the same were pending. It was pointed out by learned counsel for the petitioner that the proceedings [Application (IDA) No.174 of 1997] were kept pending in view of the Writ Petition No.1103 of 2000 filed in the High Court by the workmen challenging the order of the Labour Court and the Industrial Court dismissing the employees claim challenging the termination and permanency benefits in collateral proceedings.

**3.** After the Writ Petition No.1103 of 2000 was dismissed by this Court on October 26, 2016, the Labour Court proceeded to hear the application under Section 33C(2) of the said Act which was filed as far back in the year 1997. It is the submission of learned counsel for the petitioner-employer that unfortunately counsel representing the employer passed away as a result of which the employer

could not be represented in the Application (IDA) No.174 of 1997 which resulted in the Labour Court passing the ex-parte order dated January 27, 2020. Thereafter, an application was made by the petitioner for restoration, being Miscellaneous Restoration Application (IDA) No.1 of 2022 on April 12, 2022 setting out the reasons why the petitioner could not be represented and for setting aside the ex-parte order. By an order dated August 29, 2022 passed below Exhibit C-2 for the stay of the effect of the order dated January 27, 2020 passed in Application (IDA) No.174 of 1997, the Labour Court directed the petitioner-Company to deposit 30% of the amount of claim as per the recovery certificate.

**4.** An application was made by the petitioner-Company before the Labour Court for speaking to the minutes of the order dated August 29, 2022 with a request that instead of a deposit of 30% amount as per the recovery certificate, they may be permitted to furnish a bank guarantee. The said request was rejected by the impugned order dated September 29, 2022. Learned counsel for the respondents-

employees supported the impugned order. It is submitted that what the Labour Court has done is to secure the interest of the employees. It is further submitted that the amounts which have been directed to be deposited will fetch interest and therefore, no interference is warranted.

**5.** I find some force in the submission of learned counsel for the petitioner. The application for restoration under Section 33C(2) of the said Act is pending. An ex-parte order came to be made by the Labour Court allowing the claim of the workmen. Whether the ex-parte order deserves to be set aside or not is a matter at large before the Labour Court which obviously will be decided on its own merits. The Labour Court as an interim measure stayed the ex-parte order directing the petitioner-Company to deposit 30% of the amount ordered to be paid. Learned counsel for the petitioner on instruction of Ms. Flavia Machado, Senior Manager of the Petitioner-Company, who is personally present in the Court, submitted that they are willing to furnish a bank guarantee of 40% amount ordered to be paid by the Labour Court. The whole object of the order passed

by the Labour Court is to secure the claim of the workmen to some extent and to test the bonafides of the petitioner before considering the application for restoration on merits and as a condition for staying the recovery certificate. Taking an over all view of the matter, in my opinion, the petitioner could be permitted to furnish 40% bank guarantee of the amount as a condition for staying the recovery certificate, within a period of three weeks from today.

**6.** The main application is of the year 1997. It is necessary that the petitioner and the respondents co-operate with the Labour Court for early disposal of the restoration application. The application for restoration to be decided expeditiously and in any case within a period of three months from the date this order is placed on record. The observations made in this order are only to the extent of modifying the order of the Labour Court regarding the security to be provided and the application for restoration shall be decided on its own merits without being influenced by the observations made by me in this order. The

petitioner shall ensure that the bank guarantee is kept in force till further orders of the Labour Court. The impugned order is modified.

**7.** Writ Petition stands disposed of. No order as to costs.

**(M. S. KARNIK, J.)**