

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5448 OF 2023

M/s. Blind Relief Association

Smt. Kamala Mehta Blind School

.. Petitioner

Versus

Chandrakant Dattaram Angre

.. Respondent

-
- Ms. Deepali Kamble for Petitioner
 - Mr. Ravindra S. Pal for the Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 21, 2023

P.C.:

1. Heard Ms. Kamble, learned Advocate for Petitioner and Mr. Pal, learned Advocate for Respondent.

2. This Petition takes exception to the order dated 27.01.2023 passed below Exh. "C-11" by the Presiding Officer, Third Labour Court, Mumbai. An Application was moved by the Petitioner who was the First Party before the learned Labour Court for adducing secondary evidence in respect of the document dated 12.08.1999 which is at Exh "B" (page No. 14) to the Petition. The document in question dated 12.08.1999 when perused carefully is a copy of the show-cause-notice issued to the Respondent who was the Second Party before the learned Labour Court. Ms. Kamble is right when she would submit that the original copy of the document dated 12.08.1999 would be with the Respondent to whom it is addressed and served upon. It is seen that

the said document also bears the signature of the Respondent of having received the said document. This is an undisputed position.

3. My attention is drawn by both the learned Advocates to the previous order dated 18.04.2023 when my predecessor had an occasion to consider the impugned order and the challenge thereto vis-a-vis the said document dated 12.08.1999. The observation made by this Court were to the effect that adequate material was not placed on record to satisfy the criteria of secondary evidence before the learned Trial Court.

4. Perusal of the impugned order does reveal that the learned Trial Court has taken cognizance of the fact that the original reply to the show-cause-notice given by the Respondent is not traceable. The only objection raised by the Respondent before the learned Labour Court is on the ground that the original copy of the document dated 12.08.1999 has not been produced and according to the Respondent, the same should be in the custody of the Petitioner i.e. the First Party before the learned Labour Court. This objection, in fact, is incorrect since the document dated 12.08.1999 is actually served upon the Respondent and the Respondent has also acknowledged the same on the office copy which is maintained by the Petitioner in its record. Even after the Petition is filed, Respondent is before me and Mr. Pal is very fair in not raising any other objection than what was raised

before the learned Labour Court in so far as the said document dated 12.08.1999 is concerned. Considering that the copy of the document dated 12.08.1999 has been served on the Respondent, there can be no impediment in allowing the Petitioner to rely upon the said order / document subject to the Petitioner proving the contents of the said document in accordance with law. In so far as the admissibility of the said document dated 12.08.1999 is concerned, the same stands decided and accepted by this Court and the learned Labour Court is directed to take the said document on record and mark it as exhibit in evidence. However, the relevancy and contents of the said document will have to be proved by the Petitioner in accordance with law and the Respondent shall be at liberty to cross-examine the Petitioner's witness on the said document. Impugned order dated 27.01.2023 stands quashed and set aside with the above directions on Application below Exh. "C-11".

5. Considering the issue involved in the present case and at the joint request made by both the learned Advocates, the learned Labour Court is directed to complete hearing of the Reference (IDA) No. 90 of 2018 within a period of six months from today. Parties shall not be given any unnecessary adjournments unless absolutely required by the learned Labour Court.

6. With the above directions, Writ Petition is disposed.

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA
MOHAN
AMBERKAR

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2023.09.21
18:49:34
+0530