



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11441 OF 2023

Mahendra Jaywant Bari

.. Petitioner

Versus

Classic Stripes Private Ltd. & Ors.

Respondents /

.. Original Respondents

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- Mr. Avinash D. Kango a/w. Ms. Ravina V. Jagtap, Advocates for Petitioner.
 - Ms. Madhavi Tavanandi, Advocate for Respondents.
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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 03, 2023

P.C.:

1. Heard Mr. Kango, learned Advocate for Petitioner and Ms. Tavanandi, learned Advocate for Respondents.

2. In the present Petition the order challenged is an interlocutory order dated 27.06.2023 passed in Complaint (ULP) No.08 of 2020 filed by Petitioner who is the Original Complainant before the learned Industrial Court. Briefly stated Application below Exhibit C-14 was filed by the Respondent No.1 in the Original Complaint filed by the Petitioner seeking a direction to the Original Complainant to refund the entire amount of gratuity and legal dues etc. amounting to Rs.1,48,044/- received by the Complainant, if the Complainant desired to prosecute the complaint before the learned Industrial Court.

3. After hearing both sides, the learned Industrial Court directed the Complainant – employee to deposit the entire amount of Rs.1,48,044/- received by him within a period of 60 days from 27.06.2023 if the complaint was to be heard.

4. Ms. Tavanandi would submit that the said period for deposit has lapsed in the meanwhile. The present Petition is filed on 23.08.2023 thereafter.

5. In the impugned order itself a further direction was given that further proceedings in the complaint would stand stayed so long as the Complainant deposited the amount as directed by the learned Industrial Court. This is admitted and not been done till date.

6. On 12.09.2023, I had heard Mr. Kango, learned Advocate appearing for the Petitioner (Original Complainant) and Ms. Tavanandi, learned Advocate appearing for Respondents. It was directed that Petitioner should deposit 50% of the amount as directed by the learned Industrial Court and in that view of the matter this Court granted time to Petitioner.

7. However after expressing my mind that if the amount is not deposited, the Petition would stand dismissed. Mr. Kango took instructions from one of the client who was present in Court and informed the Court that the Petitioner be given an opportunity to consider making the 50% deposit. At that time, considering the

background of the Petitioner, I had categorically informed Mr. Kango that the Petitioner will have to show his bonafides by depositing at least 50% amount which has been received by him with the Industrial Court to enable him to pursue his complaint. I had also made it clear to Mr. Kango that in the event if the Petitioner agrees to deposit the 50% amount, this Court shall pass a specific direction to determine the complaint within a time bound manner strictly in accordance with law and the Petitioner will not be allowed any unnecessary adjournment before the learned Industrial Court.

8. Today, when the matter is called out, Mr. Kango would submit that Petitioner has given written instructions and those written instructions of Petitioner are dated 03.10.2023. They are in Marathi language and I have perused the same. They are signed by Petitioner (Original Complainant) wherein Complainant / Petitioner has stated that Petitioner is ready and willing to deposit 50% of the amount which was received from the Respondent No.1 before the Industrial Court so as to enable the Petitioner to prosecute the complaint.

9. However, it is stated in the written instructions by the Petitioner that time of 60 days be given to deposit the 50% amount.

10. Considering the background of the present case, I am inclined to allow the request made by Petitioner and permit the Petitioner to deposit 50% of the aforementioned amount of

Rs.1,48,044/- within a period of 60 days with the Industrial Court which shall begin from today irrespective of the fact when this order shall be uploaded. It is clarified that 60 days time shall come to an end on 04.12.2023.

11. If there is any default on the part of the Petitioner, it is clarified that Petitioner shall not seek any extension of time. Today, Petitioner is present before me and has interacted with me in open Court and has undertaken before the Court that he shall not seek any extension of time. It is clarified that, if the said deposit is not made, the complaint filed by the Petitioner shall stand automatically dismissed.

12. In the event if the Petitioner deposits the 50% amount well before the period of 60 days as granted then in that case the learned Industrial Court is directed to dispose of the complaint within a period of two months from the date of deposit and strictly on merits. All contentions of the parties are expressly kept open.

13. Liberty to apply.

14. In view of the above observations, findings and directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]