

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7099 OF 2024
IN
WRIT PETITION NO. 7587 OF 2021

Poshs Metal Industries Private Limited	...Applicant
<i>IN THE MATTER BETWEEN</i>	
Poshs Metal Industries Private Limited	...Petitioner
Versus	
State Of Maharashtra And Ors	...Respondents

Mr. J. P. Cama, Senior Advocate a/w. Mr. Varun Joshi, Mr. Vipul Patel,
Mr. Rachit Bharwada i/b. Haresh Mehta And Co. for the
Applicant/Petitioner.

Mr. M. M. Pabale, AGP for the Respondent Nos. 1, 4 & 5

Ms. Lata Desai, Senior Advocate a/w. Ms. Pallavi Divekar, Mr. Siddhant
Varunkar i/b. Divekar and Co. for the Respondent No. 2.

Mr. Vaibhav Ugle a/w. Mr. Roshan Chavan for the Respondent No. 3

CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.

DATED : 28 MARCH, 2024

P.C.:

1. Heard learned Counsel for the parties.
2. Learned Senior Counsel for the Petitioner in support of the Interim Application contends that the coercive steps taken by the Respondent - Mathadi Board of attaching the property and mutating the revenue entry and entering the name of the State in the revenue record is affecting the

Petitioner's business.

3. The present Petition is filed challenging the action of the Respondent -Mathadi Board of recovering dues under the Maharashtra Mathadi Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 to the tune of Rs.1,90,27,008/-. This Petition came up on board on 9 July 2020 and the following order came to be passed:

"Heard learned counsel for the parties.

2. By this Petition, under Article 226 of the Constitution of India, the Petitioner is challenging (i) the order dated 26.8.2019 passed by the Respondent no.4, (ii) order dated 16.9.2019 passed by the Tahsildar, Shirur, Pune and (iii) order of confiscation of real estate issued by the Tahsildar, Shirur dated 12.3.2020, seeking a direction against the State of Maharashtra to decide their Applications dated 31.10.2017 and 8.8.2018 filed by them, for exemption under the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969) (the "said Act"). The learned counsel for the Petitioner submits that their two Applications are pending with the Government for last more than two and a half years. He submits that, the said Act is not applicable to them. Not only that, they are not liable to pay a sum of Rs.1,90,27,008/- as claimed by the Respondents.

3. After arguing for sometime, the learned counsel for the Petitioner submits, that this Hon'ble Court be pleased to direct the State Government to decide their two Applications for exemption as early as possible. He has further made a statement that the Petitioners are ready and willing to deposit with the Respondent no.2, 2/3rd of

the amount claimed, within four weeks from today

4. Considering the above, the following order is passed :

(i) The Petitioner to deposit with the Respondent no.2, 2/3rd amount claimed by the Respondent no. 4, on or before 11.8.2020 ;

(ii) If the amount is deposited in time, the Respondents are restrained from taking any coercive action against the Petitioner till further orders ;

(iii) It is made clear that if the amount is not deposited within time, the Respondents can take appropriate action against the Petitioner for recovery of the entire amount with interest, if any ;

(iv) The Respondent-State is directed to decide the Petitioner's Applications dated 31.10.2017 and 8.8.2018 for exemption, under the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 as early as possible but, in any case on or before 30.9.2020 after hearing the Petitioner ;

(v) The Petitioner is directed to serve the Respondent no.2 by private notice along with entire proceedings and copy of this order either by hand delivery and/or by Registered post A.D./ Courier immediately ;

(vi) If the amount is deposited in time, the Respondent no.2 is directed to invest the said amount in any nationalized bank in Fixed deposit initially, for a period of six months and same to be continued till further orders;

(vii) Liberty is granted to the Respondents if they so desire, to file their Affidavit in reply if any on or before 7.8.2020 with copy to other side ;

(viii) Rejoinder if any, to be filed on or before 11.9.2020 with copy to other side;

(ix) Matter to appear on Board on 12.10.2020.

5. Mr Walimbe, Learned Assistant Government Pleader waives service for Respondents.

6. This order will be digitally signed by the Private Secretary of this Court. Sheristedar of this Court is permitted to forward the Petitioner copy of this order by e-mail. All concerned to act on digitally signed copy of this order."

4. The Petitioner has deposited the amount as per order. As pointed out by learned Senior Counsel for the Petitioner, it appears that the action of the attachment and changing the revenue record was done around the same time when the interim order was passed.

5. Learned Counsel for the Respondent - Mathadi Board states that its is not the entire amount that is deposited and therefore, continuation of the attachment and the entry in the revenue record is justified.

6. Learned Senior Counsel for the Petitioner states without prejudice to its rights and contentions, the Petitioner is ready to deposit the remaining 1/3rd amount in this Court.

7. In light thereof, we pass the following order:

(a) The Petitioner will deposit the remaining 1/3rd amount of the claim of the Respondent - Mathadi Board on same terms and conditions as per order dated 9 July 2020 within a period of 3 weeks from today.

(b) After the amount is so deposited, the Respondent - Mathadi Board will remove the attachment on the subject property and issue necessary instructions to the concerned State Revenue Authority to correct the revenue records.

(b) Upon deposit of 1/3rd amount, we also give liberty to the Petitioner to apply to the Revenue Authority, with necessary proof of deposit, for correcting/changing in the revenue records to remove the entry of the State Government. The correction be made within a period of two weeks after submission of necessary proof of deposit.

8. According to us, this course of action would not prejudice the Respondent No. 3-Union as its claim stands secured.
9. The Interim Application is accordingly disposed of in above terms.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)