

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8740 OF 2023

M/s. DXC Technology India Private Limited .. Petitioner
Versus
Chetan Vishwanath Bhole .. Respondent

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- Mr. Ajinkya Kurdukar i./by Mr. Deepak Lad, Advocate for Petitioner.
- Mr. Chetan Vishwanath Bhole, Respondent in-person present.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 02, 2024

P.C.:

1. I have heard Mr. Kurdukar, learned Advocate appearing for the Writ Petitioner – Company and Mr. Chetan Vishwanath Bhole, party in-person who is Respondent before me.

2. Briefly stated the Petitioner – Company has filed Regular Civil Suit No.707 of 2022 against the Respondent in the Trial Court seeking injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 (for short ‘**CPC**’) and an order of restraint against the Respondent from sending any communication and email to any of the Plaintiff’s customer, employees and management, etc.

3. I have perused the impugned order and issues which arise in the present case. The Respondent was employed with the Company and it is Petitioner’s case that he tendered his voluntary resignation on

12.11.2014 and was relieved from his services. This fact is refuted by the Respondent.

4. It is seen that the thrust of the Petition is one settlement deed dated 11.11.2014 which is at page No.107 and page No.108 and in that regard Mr. Kurdukar would inform the Court that in the interregnum i.e. in the year 2017 pursuant to failing in reconciliation, the learned Deputy Commissioner referred the dispute raised by Respondent to the 3rd Labour Court at Thane vide Reference (IDA) No.42 of 2017. He would submit that thereafter Respondent has issued several misleading notices and emails to the Petitioner – Company, to its past and present employees, clients, vendors, group heads including the Global Team for seeking information with respect to his voluntary resignation and employment.

5. Being aggrieved Petitioner – Company was compelled to file the instant suit being Regular Civil Suit No.707 of 2022 seeking injunction against the Respondent. Exhibit ‘5’ is preferred by the Petitioner. It is dismissed. I have perused the impugned order passed below Exhibit-5 which rejects this Application on the premise that the suit has been filed for seeking injunction and granting injunction under Exhibit-5 would allow the suit to be determined at the Exhibit-5 stage.

6. *Prima facie*, I am of the opinion that such an observation and

finding returned by Trial Court is completely erroneous in the facts of this case. The Trial Court ought to see the substance as to why the Petitioner has filed the application under Exhibit-5 and the grievance of the Petitioner. Rather than determining the issue, the learned Trial Court has returned the finding that the Plaintiff has no *prima facie* case without giving any reasons.

7. Be that as it may, I am of the opinion that if the substantive challenge to the Respondent's resignation / removal from service is pending before the Labour Court, those statutory proceedings will have to be determined in order to put to rest the controversy between the parties, rather than the learned Trial Court opining on the merits of the matter pertaining to his resignation, backwages, reinstatement, etc.

8. Hence, in that view of the matter, without delineating and opining on the merits of what has been considered by the learned Trial Court pursuant to submissions made by both parties and in order to ensure that the proceedings before the Labour Court in Reference (IDA) No.42 of 2017 are taken to its logical end on their own merits, the impugned order dated 06.12.2022 is interfered with and is quashed and set aside.

9. Resultantly, Application filed below Exhibit-5 stands allowed with a restraint placed on the Respondent to not to send any

communication or email to any of the past and present employees of the Petitioner – Company, clients including its Global team seeking any information on the issue which is subjudiced before the Labour Court.

10. Respondent is also further restrained from making any statement in the public domain or social media platform against the Petitioner – Company during the pendency of Reference (IDA) No.42 of 2017 before the concerned Court.

11. It is equally made clear that the Petitioner shall also not misuse this order of injunction passed against the Respondent before the Trial Court. Labour Court shall not read into this order, as this order is not passed on any of the merits of the matter. All contentions of the Petitioner – Company and the Respondent - employee are expressly kept open before the Labour Court in Reference (IDA) No.42 of 2017.

12. In view of the matter present Writ Petition being filed under Article 226 and Article 227 of the Constitution of India, the amplitude of this Court to pass orders in its extraordinary jurisdiction is very wide and hence the 3rd Labour Court, Thane is directed by this Court to hear and determine Reference (IDA) No.42 of 2017 as expeditiously as possible and in any event within a period of three months from today.

13. Parties are directed not to take any unnecessary adjournments and adjournments shall be denied unless there is emergency and exigency and only at the discretion of the Labour Court. All contentions of Petitioner – Company as also the Respondent – employee are expressly kept open in the pending Reference (IDA) No.42 of 2017. Reference (IDA) No.42 of 2017 shall be decided strictly on its own merits and in accordance with law and opportunity should be granted to both the parties to lead evidence and it shall be disposed of accordingly thereafter.

14. With the above directions, Writ Petition is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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