



2024:DHC:1983



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order : 29th February, 2024**

+ **W.P.(C) 16342/2023**

OM PRAKASH GANDHI Petitioner

Through: Mr.Harry Khanna, Advocate
(Through VC)

versus

SMT SITA DEVI & ORS. Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

CM APPL. 65771/2023 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 16342/2023 & CM APPL. 65770/2023 (Stay)

1. The instant writ petition under Articles 226 and 227 of the Constitution of India has been filed on behalf of petitioner seeking the following reliefs:-

"(a) To Set-Aside the Order passed by Ld. Deputy Labour Commissioner, NCR Delhi as well as Shri Harjyot Singh Bhalla, POLC 07, Rouse Avenue District Court Complex, New Delhi dated 06.11.2023 and 22.11.2023 respectively and



staying the proceedings for the six cases of respondent Nos. 4 to 9 pending before the Hon'ble Court, POLC V, Rouse Avenue District Court Complex, New Delhi listed for reply and consideration on 21.12.2023.

(b) The complaint filed by the respondents before the Ld. Deputy Labour Commissioner, NCR Delhi as well as the suits filed before the Hon'ble Court, POLC 07, Rouse Avenue District Court Complex, New Delhi against the petitioner as Proprietor of M/ s. Scope Fashions be dismissed and the petitioner may be exonerated of the charge falsely leveled against the petitioner and the petitioner may be delisted from the array of the victims as Proprietor and personal capacity.

(c) The 9 court cases with Court Cases Nos. LIR/2069 /19, LIR/2079/19, LIR/2090/19, LIR/2166/19, LIR/2167/19, LIR/2169/19, LIR/2219/19, LIR/2220/19 & LIR/2221/19 filed by the respondents before the Hon'ble Court, POLC 07, Rouse Avenue District Court Complex, New Delhi and Hon'ble Court, POLC V, Rouse Avenue District Court Complex, New Delhi falsely filed against the petitioner may be dismissed and the petitioner may be exonerated of the charge of offence for which the petitioner has been falsely implicated being not involved in any manner.

e) The proceedings before the Ld. Deputy Labour Commissioner, NCR Delhi as well as POLC's Rouse Avenue Court, District Court Complex New Delhi i.e. Hon'ble Court, POLC 07, Rouse Avenue District Court Complex, New Delhi and Hon'ble Court, POLC V, Rouse Avenue District Court Complex, New Delhi filed by the respondents be ordered to be stayed till the final decision of the present writ petition.

f) To pass any other or further orders which the Hon'ble Court may deem fit and proper in the circumstances of the case."

2. The petitioner in the present petition was summoned in a complaint filed by the workers of the firm named 'M/s Scope Fashions' under Section



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20 of the Minimum Wages Act, 1948 ('the Act' hereinafter) which is pending adjudication before the learned Labour Court-V, Rouse Avenue District Court, in LIRs bearing nos. LIR/2069/19, LIR/2079/19, LIR/2090/19, LIR/2166/19, LIR/2167/19 & LIR/2169/19.

3. Thereafter, the petitioner preferred applications under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 ('CPC' hereinafter) in all the pending matters, however, similar applications in LIR 2219/19, LIR 2220/19, LIR 2221/19 were dismissed by the learned Court below *vide* order dated 22nd November, 2023.

4. The learned counsel appearing on behalf of the petitioner submitted that the learned Court below erred in appreciating the fact that the said firm is not owned by the petitioner, rather run by his son and the said fact can be proved from the evidence on record.

5. It is submitted that the learned Court below erred in dismissing the application filed under Order VII Rule 11 of the CPC as the petitioner is not the lawful owner of the said firm.

6. It is also submitted that the petitioner is a senior citizen and is not well qualified or educated to know the repercussions of signing legal documents under guidance of his previous advocates/authorized representatives and therefore, signed the same under their misguidance.

7. Therefore, in light of the foregoing submissions, it is submitted that the present petition be allowed and the reliefs be granted as prayed.

8. Heard the learned counsel for the petitioner and perused the records.

9. The petitioner has approached this Court seeking stay on the ongoing



proceedings before the learned Court below and adjudication of the application filed by the respondent workmen under Section 20 of the Act.

10. While praying for stay on the said proceedings, the learned counsel for the petitioner has contended that the petitioner is not the proprietor of the firm in which the respondent workmen were employed. To substantiate the said claim, the learned counsel for the petitioner has referred to the letters issued by various authorities to in name of the petitioner's son namely Mr. Jatin Gandhi and therefore, prayed for stay on the ongoing proceedings and his removal from the array of parties.

11. As per the settled position of law, the writ jurisdiction conferred to the High Court is a supervisory jurisdiction where the Constitutional Courts are bound to not act as an appellate Court. In other words, the findings arrived at by the lower Courts cannot be questioned or reopened in writ proceedings.

12. In *Union of India v. P. Gunasekaran*, (2015) 2 SCC 610, the Hon'ble Supreme Court crystalized the principles regarding the scope of power of a writ Court whereby, *inter alia* the Hon'ble Court held that the Courts are restricted from correcting the error of fact.

13. As per the material on record, the respondent workmen in the instant case have filed a complaint against the proprietor of the firm in which they were employed, however, the petitioner moved an application under Order VII Rule 11 read with Section 151 of the CPC for dismissal of the dispute.

14. The material on record also suggests that the said applications were moved by the petitioner in all the complaints pending before the learned Court below and after dismissal of one such application, the petitioner has



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approached this Court seeking stay on the ongoing proceedings.

15. In light of the said facts and application of the law, this Court is of the considered view that the writ Courts are not mandated for appreciation of evidence to determine the ownership of an entity, rather the same needs to be done by the learned Trial Court.

16. Therefore, the present petition, being devoid of any merits, is dismissed, along with pending applications.

17. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

FEBRUARY 29, 2024

dy/av/ryp

Click here to check corrigendum, if any