

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Lanusungkum Jamir
And
The Hon'ble Justice Rai Chattopadhyay**

FMA 760 of 2025

CAN 01 of 2025

MAT 579 of 2025

in connection with

WPA 19913 of 2017

***M/s. Raj Kamal and Company
Vs.
The State of West Bengal and Ors.***

For the Appellant

: Mr. Ranjay De, Id. Sr. Adv.
: Mr. N. Rakshit
: Mr. Amal Krishna Samanta
: Mr. Arun Kumar Das

For the State

: Mr. Dipanjan Datta, Id. Sr. Govt. Adv.
: Mr. Sayan Datta

For the Respondent Nos. 3

: Mr. Uddipan Banerjee
: Mr. Subhrakanti Samanta

Heard on

: 01/09/2025

Judgment on

: 09/09/2025

Rai Chattopadhyay, J. :-

- 1.** The instant appeal is directed against the order of the Hon'ble Single Judge dated March 25, 2025, in writ petition W.P. No. 19913 (w) of 2017. The respondent No.3/workman has been granted relief by the

Hon'ble Single Judge under section 17B of the Industrial Disputes Act, 1947. The appellant/writ petitioner/proprietorship firm is aggrieved and dissatisfied with the said order. Hence, this appeal.

- 2.** Let the facts necessary for adjudication of this appeal bereft of any unnecessary details, be narrated, as follows. An industrial dispute had culminated into an Award being passed by the Second Labour Court dated August 23, 2016, by dint of which the respondent/workman was held to be entitled to reinstatement in service with full back wages and other consequential benefits as he has prayed for. Challenging the said Award, the appellant/firm has come up before the Hon'ble Single Judge in the writ petition W.P. No. 19913 (w) of 2017, which is still pending and awaiting adjudication. In connection with the said case, the respondent/workman has filed an application under section 17B of the Industrial Disputes Act, 1947 (as amended) (being CAN No. 3 of 2022) to pray for the relief inter alia that the appellant/writ petitioner may be directed to make payment of last drawn wages of the workman, from the date of passing of the Award, that is from August 23, 2016, till disposal of the said writ petition, towards benefit under the provision of section 17B of the Act of 1947 (as amended). The present appellant/writ petitioner has filed opposition to such application filed by the respondent/workman. Both the parties were heard by the Court and the order dated March 25, 2025 has been passed, which is impugned in this appeal.

3. The principal point of challenge as to the impugned order dated March 25, 2025, of the Hon'ble Single Bench is that the Court in the said order has been unsuccessful in appreciating the settled principle of law that fraud vitiates all. The applicant has submitted that the prayer of the workmen under section 17 B of the Act of 1947, as amended, before the Hon'ble Single Bench was based on frivolous grounds and distorted and misinterpreted facts tantamount to making false statements and misrepresentations in a Court of law. Mr. De, a learned senior counsel, has represented the appellant. He has submitted that fraud and misrepresentation of the relevant facts, as committed by the applicant /workman before the Hon'ble Single Bench, vitiate his case. In such circumstances, the said workman/respondent No.3 in this appeal would not be entitled to any relief under section 17 B of the said Act, he says. Mr. De, a learned senior counsel, has taken this Court to the averments made by the respondent/workman in the application under section 17 B of the Industrial Disputes Act, 1947, to show that the workman has stated there about his unemployment and indigent conditions since his termination of service. He has further argued that such statements in the application have been affirmed in an affidavit as true and correct, which not only establishes but strengthens the commission of fraud by the applicant/workman on the Court. To elaborate on how the said averments are intentional misrepresentations and fraud committed by the respondent/workman, Mr. De, a learned senior counsel, has thereafter taken the Court to the documents produced by the

appellant with its affidavit in opposition, which are said to be the various pay statements of the said workman from other concerns. It is submitted that according to those pay statements from other concerns, granted in favour of the respondent /workman, it is evident that not only has he been employed elsewhere after his termination from service with the appellant/proprietorship firm, but also has earned even more than what he was earlier earning from his job with the appellant. By referring to a judgment of the Supreme Court in the case of ***District Primary School Council, West Bengal Vs. Mrityunjoy Das*** reported in ***(2011) 15 SCC 111***, Mr. De learned senior counsel, has submitted that according to the Court's verdict therein, if a particular act is fraudulent, any consequential order to such fraudulent act or conduct is non est and void ab initio.

4. In this regard Mr. De learned senior counsel, has also referred to a Division Bench judgment of this Court in ***Samir Sarkar vs STP Limited and Others at (2009) 2 CHN 520 (DB)***, to submit that the Court has held therein that the legislature has purposefully vested a duty to the workman to submit the application by filing an affidavit to the effect that he was not employed in any establishment, for his entitlement of relief under section 17 B of the Industrial Disputes Act, 1947. As such, an affidavit as to be filed by the workman contending that he was not employed in any establishment is a condition precedent or sine qua non for the applicability of section 17 B of the Industrial Disputes Act. He has submitted that in case the workman is unable to furnish any such affidavit or he has been gainfully employed

elsewhere after his termination, he would not be entitled to any relief under the said provision of law. Mr. De has emphasized the Court's finding therein that the commission of fraud upon the Court by knowingly filing a false affidavit by the workman and contending therein that he was not employed in any establishment has been held to be a proper reason not to grant any relief to the workmen concerned, under the said provision of law. According to the appellant, the respondent/workman has approached the Court with 'uncleaned hands', and Mr. De has submitted that the person approaching the Court with uncleaned hands is not entitled to any equitable relief; that the Court in the case of **Samir Sarkar (supra)** has held similarly that *"It is a settled legal position that a person must approach the Court in clean hands"* and that *"he requires to submit his case properly by disclosing all material facts and no facts should be distorted to attract the principle of suppressio veri and / or suggestion falsi"*.

5. Mr. De learned senior counsel has submitted that an order which is a result of commission of fraud on the court would be liable to be recalled. In this respect, he has further relied on a judgment of the Supreme Court in **Vipin Kumar vs Jaydeep and Others at (2025) 6 SCC 465** and the following portion thereof:

"36. In this regard, the learned Senior Counsel for the appellant placed reliance on the judgment of this Court in A.V. Papayya Sastry v. State of A.P. [A.V. Papayya Sastry v. State of A.P., (2007) 4 SCC 221], by contending that when there has been a fraud played by the first respondent herein, the same would have to be considered by the High Court by recalling the earlier orders passed by it and by rehearing the parties and rendering a judgment in accordance with law. The relevant

observations from the aforesaid judgments are paraphrased as under : (SCC p. 222)

“Fraud may be defined as an act of deliberate deception with the design of securing some unfair or undeserved benefit by taking undue advantage of another. In fraud one gains at the loss of another. Even the most solemn proceedings stand vitiated if they are actuated by fraud. Fraud is thus an extrinsic collateral act which vitiates all judicial acts, whether in rem or in personam.

A judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non-est in the eye of the law. Such a judgment, decree or order — by the first court or by the final court — has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings.”

6. By referring to the impugned order of the Hon’ble Single Judge dated March 25, 2025, Mr.De has submitted that the Court in the same has dwelled on the beneficial nature of the said legislation though only erroneously. According to him, benefit under a social welfare legislation should devolve on a bona fide applicant and not otherwise. By referring to this Court’s judgment in **Samir Sarkar’s case (supra)**, he has stated that to maintain the purity of the justice delivery system, nobody should be granted any premium who comes with an unclean hand and submits a false application before the Court of law, as the Court has held there. Thus Mr. De has submitted that the benefits have been granted to the respondent/workman by the Hon’ble Single Judge only on erroneous considerations whereas his prayer is liable to be rejected due to fraud and misrepresentation. He has insisted that the impugned order as above may be set aside.

7. The respondent No. 3 who is the main answering respondent has been represented by Mr. Banerjee, learned Advocate. Without categorically

denying whatever are stated on behalf of the petitioner regarding the respondent No. 3 having been engaged in some other employment after his termination of service from the appellant/proprietorship firm, the respondent No. 3 has contended that his case is covered under proviso to Section 17B of the Industrial Disputes Act, 1947 in so far as even if he has been earning the same would not be adequate remuneration for him to maintain his livelihood. Thus, on merit, it is the contention of the respondent No. 3/workman that inadequate earning, if any, would not denude him from being granted the benefit under Section 17B of the Act of 1947.

8. Excepting the point in argument raised by the respondent No. 3 as mentioned above, a primary point of objection has been canvassed by Mr. Uddipan Banerjee for the respondent No. 3 that is, non-maintainability of the writ petition due to the fact that the sole proprietor of the appellant/writ petitioner/proprietorship firm has not been impleaded as a party in either the writ petition or the appeal.
9. In this regard, it has been submitted that sole proprietorship firm shall have no independent identity and cannot sue or be sued excepting in the name of the sole proprietor thereof. It is submitted further that in the instant case, neither in the writ and not in appeal the proprietor of the appellant proprietorship firm has been impleaded as a party. Therefore, according to the respondent No. 3, such defect of party renders the writ petition as well as the appeal as not maintainable.

10. To reply the argument as above advanced on behalf of the respondent No. 3 Mr. De, learned Senior Counsel appearing for the appellant has submitted that the endeavor of the respondent to rely on the proviso of the relevant statutory provision is only futile. He says that the law is well-settled that the proviso of a legal provision is subject to the principle provision as laid down in the statute and is not an independent provision by itself. For this, Mr. De has specifically referred to the provision under Section 17B of the Industrial Disputes Act, 1947. By referring to the same, he has submitted that the respondent No. 3 would be entitled to relief under the said provision of law only when it is established in the Court of law in which the award of the Tribunal has been challenged by the employer, that the workman has “not been employed” in any establishment during the period of pendency of the case. According to him, the respondent No. 3 not to have been employed in any establishment during pendency of the writ petition and appeal and an affidavit to that extent being filed by the workman would have been imperative for him to secure an order from the Court under Section 17B of the said Act. He submits that the question of inadequacy, if any, of the remuneration earned by the workman during such period, comes much later and only when the affidavit of the workman submitted before the Court in terms of the statute would have revealed the actual fact of his being employed somewhere else. In this case, according to Mr. De, the Court would not be required to even enter into the question of inadequacy or not of the remuneration earned by the respondent No. 3 for the reason that the

affidavit submitted by him before the Court of law only bears untrue statements and misleading fact that he has never been gainfully employed during the period of pendency of the writ petition. Mr. De in this regard, has referred to a judgment of the Supreme Court of ***Durgabai Deshmukh Memorial Senior Secondary School and Another Vs. JAJ Vasu Sena and Anr.*** reported at **2019 17 SCC 157**. In the same, the Court says that it is a settled position of law that the objective of a proviso is to carve out from the main Section a class or category to which the main Section does not apply; that a proviso must prima facie be read and considered in relation to the principle matter to which it is a proviso; that the proviso is not a separate or independent enactment

11. So far as the other point of defect of party as envisaged by respondent No. 3 in the instant case the reply of the appellant is that omission to mention the name of the sole proprietor of the proprietorship firm is an unintentional and bona fide mistake at the best but not an illegality and is such a technical issue which may be cured by dint of an order of this Court. In this regard, Mr. De has taken this Court to the affidavit filed along with writ petition by the sole proprietor of the petitioner/appellant/sole proprietorship firm. He submits that it is not that the proprietor has concealed himself altogether but he has affirmed affidavit before the Court and thereby disclosed his identity and taken charge of the averments made in the writ petition itself. Mr. De has further submitted that the cause title of

the appeal cannot be different than the cause title of the writ petition. Therefore, according to him it is only a curable technical glitch.

12. In this appeal, the Court is concerned with the issues whether the respondent No. 3/ workman has fulfilled the criteria as laid down under Section 17B of the Industrial Disputes Act, 1947 to be duly entitled for a beneficial order in his favour under the said provision of law. Or whether the conduct of the respondent No. 3/workman should be considered as encumbered with the alleged fraud committed by him on Court, by suppressing material relevant fact of his employment during the period of pendency of the writ petition and appeal and by filing an alleged false affidavit in this respect before the Court.

13. Before entering into discussion with regard to the determinable issues as above, it is necessary to see to the provision laid down under Section 17B of the Industrial Disputes Act, 1947. Let the same be reproduced as hereinbelow: -

“17B. Payment of full wages to workman pending proceedings in higher courts.—Where in any case, a Labour Court, Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court: Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.”

14. Hence, the social welfare legislation like the Industrial Disputes Act, 1947 in furtherance of its project to extend benefit to the weaker section of the society as provided under Section 17B thereof that where an award of the Tribunal for reinstatement of any workman is challenged before this Court or Supreme Court, the employer would be obliged under the said statutory provision and shall be liable to pay to the workman full wages last drawn by him inclusive of any maintenance allowances admissible to him under the Rule during the period of pendency of such proceeding. However, this statutory provision is subject to the condition as provided in the statute itself that to be entitled to such benefit under the said provision of law, the workman should not have been employed in any establishment during the period when proceeding would be pending before the High Court or the Supreme Court and an affidavit by such workman be filed in the Court to that effect. The proviso of the Section 17B of the Act has laid down that in case the Court finds the said workman to have been employed or receiving adequate remuneration during the period of pendency of the case, no wages shall be allowable to him under the said provision of law. Hence, it is clearly understandable that for the purpose of the workman to sustain and live his life a beneficial provision is in vogue, in terms of that made under Section 17B of the Industrial Disputes Act, 1947 that during the period when challenge as to the award on reinstatement of the workman is pending before the High Court or the Supreme Court and he remains without any source of earning he would be entitled to benefit in terms of Section 17B of the said Act. For this, the workman has to furnish an affidavit before

the Court affirming the fact that he has not been gainfully employed during pendency of the proceeding before the High Court or the Supreme Court. Otherwise, the Court would consider not to grant any such benefit to him under the said provision of law when it finds the remuneration earned by the workman during such period is adequate.

15. The primary requirement for an applicant workman for the benefit under Section 17B of the Industrial Disputes Act is to say on affidavit that he has not been employed gainfully during the period of pendency of the proceeding before the High Court or the Supreme Court. However, if he affirms on affidavit about his gainful employment during this period then the proviso of Section 17B of the said Act comes into operation when the Court also adjudicates about the adequacy or inadequacy of the remuneration received by him as envisaged by the Supreme Court in the judgment of **JAJ Vasu Sena (Supra)** that a proviso shall only be related to the principle matter to which it is a proviso and not be considered as a separate or independent enactment, the respondent can rely thereon only when he has accepted the fact of his being gainfully employed elsewhere during pendency of the writ petition/appeal.

16. At this stage, from the submissions made on behalf of the respondent No. 3, one can find that he tries to embrace upon the Court about the inadequacy of his remuneration during the period of pendency of the case before this Court. This however, is in stark contradiction with whatever has been stated by him in his application under Section 17B

of the Industrial Disputes Act, 1947, filed before this Court (being CAN No. 3 of 2022).

17. In the said application, the respondent No. 3/workman has mentioned that during the period of pendency of the writ petition, he has not been engaged in employment anywhere else and he has been devoid of any source of earning during the period. That by itself might have rendered him fit for a benefit to be granted to him under the said provision of law unless and until the appellant would have come before the Court in their affidavit-in-opposition with the relevant pay statements of the respondent No. 3 during the period of pendency of the instant writ petition/appeal, with some other companies. The pay statements filed by the appellant/writ petitioner are on record. Those suggest petitioner's earning during the pendency of the writ petition though not continuously in similar manner this pay statements stand in stark contradiction with whatever have been stated by the workman applicant in his application under Section 17B of the Industrial Disputes Act, 1947 filed by the Hon'ble Single Judge.

18. The Court considers that the factum of being gainfully employed or not of the concerned workman is the most relevant fact for the Court to determine his application under Section 17B of the Industrial Disputes Act, 1947. Hence, these vital and relevant facts are seen to have been suppressed by the respondent No. 3 before the Hon'ble Single Judge in his application filed on affidavit. It is a settled law that suppression of material and relevant fact tantamount to commission of

fraud and that fraud vitiates all. At the cost of reiteration, the Court seeks to mention the finding of the Supreme Court in this regard in the case of **Mrityunjay Das (Supra)** and **STP Limited (Supra)** it would be beneficial to record the relevant portion in the case of **STP Limited (Supra)** for the purpose of this case which is as follows:-

"It is a settled legal position that the false affidavit vitiates everything and the Court of law should not allow a person filing such false affidavit to secure an order in his favour. "Effect of fraud would normally be to vitiate all acts and orders - it vitiates all actions"- is the observation of the Court passed in the case of Smith v. East Elloe Rural District Council, reported in (1956) 1 All ER 855. The Apex court answered the issue that power to recall/cancel an order which obtained by fraud applies not only to Courts of law but also to statutory tribunals which do not have power to review in the case of Indian Bank v. Satyam Fibres (India) Pvt. Ltd., reported in (1996) 5 SCC 550. The judgments passed in Satyam Fibre (supra) and Smith (supra) had been followed in the case of Indian National Congress(I) v. Institute of Social Welfare, reported in (2002) 5 SCC 685.

"Fraud is an extrinsic, collateral act, which vitiates the most solemn proceedings of Courts of justice" - is the view expressed by Chief Justice Grey in R v. Duchess of Kingston, reported in 2 Smith LC 687. It is also observed therein by Lord Coke that it avoids all judicial acts, ecclesiastical and temporal.

"No judgment of a Court, no order of minister can be allowed if it has been obtained by fraud-fraud unravels everything"- is the observation passed in the case of Lazarus Estates Ltd. v. Beasley by Lord Denning, reported in 1956 vol. 1 All ER 341. In the said case of Lazarus (supra) Lord Parker CJ observed "Fraud vitiates all transactions known to the law of however high a degree of solemnity. The Apex Court also considered that issue in different cases, namely in Ramchandra Singh v. Sabitri Devi, reported in (2003) 8 SCC 319, Vijay Sekhar v. Union of India, reported in (2004) 4 SCC 666 (a judgment of three-Judge Bench).

The Corpus Juris, volume 49, para 265, has discussed the issue in this angle- "Courts of records or of general jurisdiction have inherent power to vacate or set aside their own judgments in the event of discovery of any fraud or misrepresentation". Decree or order obtained by fraud and its effect was considered in the case by holding that it is a nullity, as reported in (2007) 8 SCC 751, under cause title T. Vijendradas v. M. Subramanian. wherein the Apex Court applied the earlier cases on that field. The Apex Court further held that submission of false affidavit is also a contempt of Court including submission of the forged documents by holding that the same is nothing but interference with the administration of justice and it is a criminal contempt under section

2(c) of the Contempt of Courts Act, 1971. This view has been taken in the case of Chandra Sashi v. Anil Kumar Verma, reported in (1995) 1 SCC 421. Filing of false affidavit is criminal contempt, reliance is made to the case of Muray & Co. v. Ashok Kr. Newatia, reported in 2000 (2) SCC 367.

"when there is a fraud exercised by way of submission of a false statement of facts, the order is required to be recalled and no benefit could be available therefrom and all benefits should be also recalled"- is the view expressed in the case Hamza Haji v. State of Kerala, reported in (2006) 7 SCC 416, wherein the Apex Court has gone to the extent that even the second review application is maintainable by the Court if there is an exercise of fraud. In that case, a person got a benefit of retention of his land under Kerala Private Forests (Vesting of Assignment) Act, 1971, by contending that those were forest land, by filing an affidavit to that effect. On the basis of which the Tribunal allowed it. It was challenged unsuccessfully by the State and subsequently review application was dismissed. But later on, a group of citizens of that area moved a writ application in the High Court and the State also filed another second review application. Both were taken up for hearing and the High Court quashed its earlier order of rejection as well as the order of the Tribunal referring relief to the applicant who intended to retain the land by submitting a false affidavit. When the matter went to the Supreme Court, the Supreme Court answered the point that the second review was permissible by the High Court on the factual matrix of the case as there was a clear case of fraud exercised by the person concerned to gain something illegally."

19. Therefore, for time immemorial, the Court of law have considered fraud very sternly and deprecated the practice thereof. In a Court of equity, it is absolutely necessary that the applicant come with clean hands and suppression of facts particularly which are material and relevant facts are seen very seriously by the Court. In that event, the Court have not granted any premium to the person who come with unclean hands, to maintain the purity of justice delivery system.

20. Also, in case of commission of fraud, the entire proceeding becomes a nullity and orders void ab initio. In this regard, the finding of the Supreme Court in the case of ***Mrityunjay Das (supra)*** may be quoted as hereinbelow:-

"If a particular act is fraudulent, any consequential order to such fraudulent act or conduct is non est and void ab initio and, therefore, we cannot find any fault with the action of the appellant in dismissing the service of the contesting respondents. In this context we refer to the decision of this Court in Ram Preeti Yadav v. U.P. Board of High School and Intermediate Education for the proposition that no person should be allowed to keep an advantage which he has obtained by fraud."

21. It is revealed in this appeal that the application filed by the respondent No. 3/workman along with the affidavit before the Hon'ble Single Judge has disclosed only blatant, untrue statements. The facts which are relevant and necessary to be disclosed before the Court in order to enable the respondent No. 3 to be entitled to a benefit under Section 17B of the said Act were suppressed intentionally. This is definitely an act of fraud committed upon the Court of law in order to secure a benefit which is not otherwise allowable to the concerned workman.

22. Had it been a case that the respondent No. 3 has disclosed about his employment or insufficient remuneration earned in his affidavit, the Court would have been justified in terms of the proviso of Section 17B of the Industrial Disputes Act to consider the adequacy or inadequacy of the remuneration drawn by the said respondent so as to decide whether he would be entitled for benefit under Section 17B of said Act. However, in case of commission of fraud by the concerned workman, the question of applicability of the provision made under proviso of Section 17B of the said Act does not arise at all. On the contrary, the workman having filed an affidavit which is apparently comprised with

untrue statements would not be entitled to any benefit under the said provision of law for the reason of commission of fraud upon the Court. It is further necessary that the maintainability point as raised on behalf of the respondent No. 3 in this appeal be also discussed. Admittedly, the appellant is a sole proprietorship firm. It is the settled law that a sole proprietorship firm without the sole proprietor thereof would not be a juridical entity which may sue or be sued in its in name. Hence, it is imperative that the sole proprietor be made a party along with sole proprietorship firm in a proceeding before the Court of law.

23. In this case, the sole proprietor of the appellant/writ petitioner though not has been added as a party, cannot be said to have withhold his identity. It is apparent that the sole proprietor of the appellant has affirmed the affidavit before the Hon'ble Single Judge disclosing his identity. Therefore, the Court is in concurrence of opinion with Mr. De, learned Senior Counsel that failure to add the sole proprietor of the appellant is only a technical flaw and would not substantially jeopardize the maintainability of the instant writ petition/appeal. It is therefore a curable defect which may be cured by allowing the sole proprietor of the appellant/writ petitioner to be added as the second petitioner in the writ petition. Let the Hon'ble Single Judge pass necessary order to add the sole proprietor of the writ petitioner as the second petitioner in the writ petition pending before it. The preliminary point of maintainability of the writ petition/appeal for the reason as above, is held not to be sustainable.

24. Upon careful perusal of the order passed by the Hon'ble Single Judge dated March 25, 2025, the Court finds that the Hon'ble Single Judge though has considered the provision of law to be in furtherance of the social welfare purpose of the statute but has failed to ascertain if the statutory preconditions are duly fulfilled by the applicant respondent No. 3/workman or if he has committed fraud upon the Court or not. As such, the Hon'ble Single Judge has come to a finding which is not only without consideration of the document on record particularly the application filed by the respondent No. 3/workman on affidavit but also erroneous and not in conformity with the settled law. Hence, the said order dated March 25, 2025, passed by the Hon'ble Single Judge is not sustainable any further and is liable to be set aside.

25. For the reasons as discussed above, the appeal succeeds. The appeal No. **FMA 760 of 2025 (MAT 579 of 2025)** is allowed with the following directions:-

i) The respondent No. 3/workman would not be entitled to any benefit under Section 17B of the Industrial Disputes Act, 1947.

ii) The impugned order dated March 25, 2025 passed in writ petition No. WPA 19913 of 2017 is set aside.

iii) The sole proprietor of the appellant/writ petitioner/sole proprietor firm shall be added as the second petitioner in the said writ petition.

26. However, let it be clarified that the entire discussion as above, is for the purpose of determining the merits of the proceeding which commenced with filing of CAN 3 of 2022 by the respondent No. 3/workman before the Hon'ble Single Judge and ended with passing of the impugned order dated March 25, 2025 by the Hon'ble Single Judge. Therefore, nothing thereof should influence the Hon'ble Single Judge in any way whatsoever while considering the writ petition on merit.

27. Let the writ petition No. WPA 19913 of 2017 be taken up and disposed of by the Hon'ble Single Judge as expeditiously as possible, as per the Court's diary.

28. Appeal No. **FMA 760 of 2025 (MAT 579 of 2025)** is allowed and disposed of.

29. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)

Later -

1. After delivery of the judgment, Mr. Ranjay De, learned Senior counsel appearing for the appellant has sought for an interim order of stay of operation of the award of the Tribunal dated August 23, 2016 till disposal of the writ petition before the Hon'ble Single Judge.
2. Heard. Considered.
3. The prayer of the appellant as above is allowed.
4. Let the operation/further operation of the impugned award of the Tribunal dated August 23, 2016 be stayed till disposal of the writ petition.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)