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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**27 CIVIL APPLICATION NO. 765 OF 2025
IN FAST/1970/2025**

**THE ASSISTANT ENGINEER MAHARASHTRA STATE
ELECTRICITY DISTRIBUTION COMPANY LTD AND ORS**

....Applicant

VERSUS

KALYAN BHAGWAT WAGHMARE AND ANR

.....Respondent

.....
Advocate for Applicant : Mr. Shelke Avishkar S.

.....

**CORAM : S.G. CHAPALGAONKAR, J.
DATE : 21ST JANUARY, 2025.**

P.C. :-

IN APPEAL

Heard Mr. Shelke, learned advocate for appellant. Issue notice to respondents returnable on 4.3.2025.

IN CIVIL APPLICATION NO. 766 OF 2025.

1. Heard Mr. Shelke. He would submit that deceased was employee of the contractor and without adding him as party, the proceeding was instituted seeking compensation under the Employees Compensation Act. He would submit that although the principal employer may be held liable to pay compensation in view of Section 12 of the Employees Compensation Act sub-section (2) of Section 12 imposes an obligation upon the Commissioner to determine the inter-se liability between the principal employer and contractor.

2. In absence of contractor being party, such obligation cannot be discharged. As such, the issue as to inter-se liability of the principal and contractor has remained undermined.

3. He would further submit that the objection as to non-joinder of necessary party was specifically raised on behalf of the applicant, but the same is not given consideration. In that view of the matter. Issue notice to respondents returnable on 4.3.2025. Till then, there shall be ad-interim relief in terms of prayer clause (C).

[S.G. CHAPALGAONKAR, J]

grt/-