

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6689 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners
Versus
Sanjay Sonu Rambade & Anr. .. Respondents

WITH
WRIT PETITION NO. 6674 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners
Versus
Krishna Arjun Wadkar & Anr. .. Respondents

WITH
WRIT PETITION NO. 6688 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners
Versus
Laxmi Narayan Jalda & Anr. .. Respondents

WITH
WRIT PETITION NO. 9399 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners
Versus
Ashok Mallayya Yeligeti & Anr. .. Respondents

WITH
WRIT PETITION (ST) NO. 15713 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners
Versus
Harish Ishwarlal Dave & Anr. .. Respondents

WITH
WRIT PETITION NO. 6694 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners
Versus
Vinayak Ramchandra Alim & Anr. .. Respondents

WITH
WRIT PETITION NO. 6690 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners

Versus

Sarika Sachin Koli & Anr. .. Respondents

WITH
WRIT PETITION (ST) NO. 15718 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners

Versus

Yogesh Sakharam Jadhav & Anr. .. Respondents

WITH
WRIT PETITION NO. 6697 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners

Versus

Mangesh V. Sarang & Anr. .. Respondents

WITH
WRIT PETITION (ST) NO. 15723 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners

Versus

Sachin Gajanan Koli & Anr. .. Respondents

WITH
WRIT PETITION (ST) NO. 15724 OF 2025

Mohammdi Healthcare Systems Pvt Ltd & Anr. .. Petitioners

Versus

Namrata Vijay Vaity & Anr. .. Respondents

.....

- Mr. S.I. Memon, Advocate for Petitioners in all Petitions
- Mr. P.M. Mokashi, Advocate for Respondent No. 1 in all Petitions except WP Nos. 6674/25 & 6688/25
- Mr. S.L. Babar, AGP for State in WP Nos. 6674/25, 6689/25, 6688/25, 9399/25, (st) 15713/25
- Ms. M.S. Shrivastav, AGP for State in WP Nos. 6694/25 & 6690/25

- Mr. P.V. Neson-Rajan, AGP for State in WP Nos. (st) 15718/25 & 6697/25
- Ms. V.S. Nimbalkar, AGP for State in WP Nos. (st) 15723/25 & (st) 15724/25

.....

CORAM : MILIND N. JADHAV, J.

DATE : JULY 15, 2025

P. C.:

1. Heard Mr. Menon, learned Advocate for Petitioners; Mr. Mokashi, learned Advocate for Respondents and learned AGPs appearing for the State.

2. This is a group of 11 Writ Petitions. Facts are absolutely identical in all these Petitions. Petitioner No. 1 - Healthcare Unit is the employer / alleged employer and Petitioner No. 2 is a Doctor who runs the said Unit. They are represented by Mr. Menon. For convenience and reference, Writ Petition No. 6689/2025 is taken as the lead Petition for narration of facts.

3. At the outset Mr. Menon would submit that the impugned order dated 07.04.2025 appended at page Nos. 25-35, Exh. "A" of Petition passed by the learned Presiding Officer, Third Labour Court, Mumbai in Reference (IDA) No. 50/2016 is an interlocutory order deciding maintainability of the Reference as a preliminary issue which has been decided by the said Court. He would submit that by virtue of the said order, hearing of Reference is expedited and the Reference proceedings

have also progressed further and is now at the stage of evidence of the Petitioners today. Be that as it may, Writ Petition is filed to challenge the impugned order on maintainability on the premise that the Union representing and espousing the cause of workmen had in a separate Complaint (ULP) before the Industrial Court, Maharashtra at Mumbai had filed an Application for the same cause of action which came to be dismissed. Copy of that order is appended at page No. 65 of the Petition. Mr. Menon would submit that once the Union had selected the forum to represent and espouse the cause of action, maintainability of Reference before the Labour Court by the employees is impermissible in law and therefore at the behest of Petitioners the preliminary / additional issue of maintainability of the Reference was framed. However, the same is answered in the affirmative to the detriment of the Petitioners. Being aggrieved with the same, Petitioners are before me.

4. In support of his submissions, Mr. Menon has referred to and relied upon the decisions of the coordinate Bench of this Court in the case of *Jacob Chinnannan v. Sudarshan Aluminium Industries Ltd, Nasik & Anr.*¹ and *The Maharashtra Girni Kamgar Union v. Carona Sahu Co. Pvt. Ltd. & Ors*². While drawing my attention to the decision of this Court in the case of *Jacob Chinnannan (1st supra)*, he has

1 Judgment & Order dated 01.02.2002 passed in Writ Petition No. 3477/1995

2 (1994) III LJ 20 BOM

drawn my attention to paragraph No. 6 thereof wherein this Court has held that once the Petitioner therein had pursued proceedings under the MRTU and PULP Act then in that case, he could not maintain the same proceedings before the Industrial Court under the Industrial Disputes Act, 1947. That was the case where the proceedings filed by the Petitioner therein before the Labour Court was dismissed for default. He would argue and apply the same analogy to the facts in the present case and would submit that in the first instance when Complaint (ULP) No. 455/2013 of Petitioners in the lead Petition was dismissed by the Industrial Court for default fresh cause of action would not be available to the employees in the Reference. *Prima facie* in the present case it is seen that fresh cause of action is not by the Union who was the prosecutor and complainant before the Industrial Court. The fresh cause of action in the present case is filed by the employees themselves separately. Learned Labour Commissioner on failure of the reconciliation proceedings made a Reference to the learned Labour Court.

5. That apart Mr. Menon would lay thrust on the decision in the case of *The Maharashtra Girni Kamgar Union (2nd Supra)* and more specifically paragraph Nos. 3 and 4 thereof wherein he has referred to applicability of the provisions of Section 59 of the MRTU & PULP Act which clearly bar proceedings for reference if any proceedings in

respect of any matter falling within the purview of the said Act is instituted under the said Act in any other Court as the case may be. Once again Mr. Menon would have been right in his contention if the Complaint (ULP) No. 455/2013 would have been adjudicated and decided on its own merits thereby precluding the employee from maintaining the reference before the Labour Court on the same cause of action. That is not the case over here. Learned Labour Court while hearing the preliminary issue has returned reasoned findings while dealing with the aforesaid twin decisions cited by Mr. Menon and referring to the decision of this Court in the case of *C.S. Dixit and Bajaj Tempo Ltd³* which categorically concludes that the bar provided under Section 59 of the MRTU & PULP Act will not come in the way of filing a reference in the case of employee ever if he has filed a Complaint (ULP) under the Industrial Disputes Act in the Industrial Court and has withdrawn the same. In that view of the matter, the reasons returned by the learned Labour Court while determining the preliminary issue in paragraph Nos. 17 to 22 of the impugned order cannot be faulted with as the same are in consonance with the extant statutory provisions of law.

6. Mr. Mokashi, learned Advocate for Respondent No. 1 would inform the Court that the Reference (IDA) before the learned Labour

3 Pune 2000 II LLJ PG 561

Court has already proceeded with and the evidence of first party i.e. employees is completed. He would submit that deposition of witnesses of Petitioners is at present underway in the said Reference (IDA). Mr. Menon would persuade the Court to give substantial time to complete evidence of Petitioners' witnesses considering the evidence which has already been led by the employees before the learned Labour Court.

7. In view of the above observations and findings, the impugned orders all dated 07.04.2015 in all 11 Petitions which are identical in all Petitions save and except the nomenclature of the second party in all References (IDA) are confirmed and upheld. As directed in the said orders, learned Third Labour Court is directed to complete the hearing of Reference (IDA) in all cases within a period of six months from today keeping all contentions of the parties expressly open and the said References (IDA) shall be decided strictly in accordance with law.

8. With the above directions, all 11 Writ Petitions are disposed.

[MILIND N. JADHAV, J.]

Amberkar

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2025.07.15
19:59:20 +0530