

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 18319 OF 2024**

Vinod B. Shah and others	...	Petitioners
vs.		
Jayprakash Ramnath Rajbhor	...	Respondent

Mr. Mulanshu Vora a/w. Mr. Avinash Jalisatgi and Mr. T. R. Yadav for petitioners.

Mr. Vaibhav Uttam Jagdale for respondent.

CORAM : MANISH PITALE, J

DATE : 18th DECEMBER, 2025

P.C. :

. Heard learned counsel for the parties.

2. By this petition, the petitioners have prayed for setting aside of an *ex parte* award dated 20.08.2018 passed by the Labour Court at Thane, and also a subsequent order dated 06.09.2024, whereby an application filed by the petitioners for setting aside of the aforementioned *ex parte* award, was also rejected.

3. The learned counsel for the petitioners invited attention of this Court to the *roznama* of the concerned Labour Court, to contend that the contents thereof would show that the Labour Court erred in proceeding on the basis that the petitioners were duly served in the reference proceedings, which ultimately led to the impugned *ex parte* award. It was submitted that the bailiff's report dated 21.03.2016 made it amply clear that the petitioners had given their premises on leave and license basis to a third party and in such a situation, service of notice by pasting the same on the premises, was of no consequence to demonstrate effective service on the petitioners.

4. It was submitted that the Labour Court, while proceeding *ex parte* against the petitioners and subsequently, while rejecting the application seeking setting aside of the *ex parte* award, erred in appreciating the contents of the bailiff's report and thereby, committed a grave error in refusing to set side the *ex parte* award for granting an opportunity to the petitioners to meet the case of the respondent-workman on merits.

5. On the other hand, the learned counsel appearing for the respondent tendered a compilation of documents. This Court finds that the said documents are certified copies obtained from the concerned Labour Court and therefore, the said documents can be perused by this Court, to appreciate the submissions made on behalf of the respondent. Hence, the compilation is taken on record.

6. By referring to the certified copies of the documents, which include earlier bailiff reports as also copies of AD cards concerning notices despatched by Registered Post AD, it was submitted that the petitioners were served more than once and the bailiff's report dated 21.03.2016 annexed to the petition, pertained to a notice issued by the Labour Court, in the context of an application for amendment moved on behalf of the respondent. It was submitted that a proper appreciation of the contents of the said bailiff's report, would show that the address was correct and the premises were owned by the petitioners and hence, pasting of notice in such circumstances, was justified as proof of good service upon the petitioners on the third occasion.

7. It was submitted that it was only after the petitioners pursued recovery proceedings and the Labour Court passed an order on

07.02.2024, issuing recovery certificate against the petitioners, that they were galvanized into pursuing their application for setting aside of the *ex parte* award and filing the present petition. It was submitted that the writ petition may be dismissed with costs.

8. Ideally, Courts prefer adjudication of disputes between the parties, after giving sufficient opportunity to the rival parties to meet the case set up by the other. In that sense, proceeding *ex parte* is an exception to the general rule. But if, in the facts and circumstances of an individual case, the Court finds that the party raising grievance about *ex parte* proceeding or order is itself to blame, no indulgence can be shown, much less in writ jurisdiction.

9. In the present case, the copies of *roznama* on record show that all efforts were made by the respondent-workman to serve the petitioners in the reference proceedings. The compilation of documents tendered on behalf of the respondent, shows that as far back as on 11.08.2014, the petitioner No.1 was served and proof in the form of an acknowledgement card of the postal department, was available on the record of the Labour Court in the form of Exhibit O3.

10. As regards service upon petitioner No.2, notice was served through bailiff and report of bailiff dated 05.02.2015, is part of the compilation of documents taken on record. It shows that the notice was duly received by a Manager of the establishment of the petitioners, but he refused to affix seal of the establishment, even after being specifically requested by the bailiff. The documents pertaining to the aforesaid mode of service do indicate that both the petitioners were duly served as far back as in the year 2015 itself.

11. The petitioners themselves chose not to respond to the notices and they failed to participate in the proceeding before the Labour Court in the pending reference. They did so at their own peril.

12. There is substance in the contention raised on behalf of the respondent that the bailiff's report dated 21.03.2016, upon which much emphasis has been placed on behalf of the petitioners, concerns service of notice in the context of an application for amendment moved on behalf of the respondent in the pending reference proceeding. In the backdrop noted hereinabove, the contents of the said bailiff's report does not make out a case in favour of the petitioners, simply because the bailiff correctly reported that the address was that of the petitioners and they were the owners of the premises, thereby justifying pasting the notice on the said premises.

13. In such a situation, the petitioners cannot be permitted to wriggle out from the predicament that they find themselves in, because of their own approach to somehow deprive the respondent of the fruits of the award.

14. This Court refuses to exercise writ jurisdiction to interfere with the impugned *ex parte* award and the subsequent order dated 06.09.2024 passed by the Labour Court, rejecting the application for setting aside the *ex parte* award.

15. The approach adopted by the Labour Court in the order dated 06.09.2024, cannot be said to be erroneous. There is substance in the contention raised on behalf of the respondent that it was only when

the petitioners felt the heat of the recovery certificate being issued by the Labour Court, that they pursued the application for setting aside of the *ex parte* award and subsequently, filed the present petition.

16. Entertaining the present petition would amount to granting premium to the deliberate approach adopted by the petitioners, to ignore the notices duly served upon them with regard to the reference proceedings and then, to turn around and raise hue and cry about being deprived of an opportunity of being heard on merits. When they had the opportunity, they did not avail of the same and in such a situation, no indulgence can be shown by this Court exercising writ jurisdiction.

17. In view of the above, the writ petition is dismissed. Pending applications, if any, also stand disposed of.

(MANISH PITALE, J.)

Priya Kambli