

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3685 OF 2024

Shyam Kashinath Koli & Ors.

.....*Petitioners*

: *Versus* :

M/s. Essel World Leisure Pvt. Ltd.

....*Respondent*

Mr. R.S. Upadhyay, *for the Petitioner.*

Mr. Kiran S. Bapat, **Senior Advocate** with Mr. Sachin Pathak, Mr. Mahesh Shukla and Mr. Niraj Prajapati, *for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

DATED : 26 NOVEMBER 2025.

P.C :

1) By this petition, Petitioners have challenged the order dated 27 March 2023 passed by the learned Member, Industrial Court, Mumbai by which application preferred by the Respondent-employer at Exhibit-C-13 has been partly allowed. The Industrial Court has directed that complainants/Petitioners who desire to prosecute the complaint shall deposit the amount paid towards VRS Compensation under the settlement. Deposit of such amount is directed as a precondition for entertainment of the complaint on merits. Petitioners are accordingly aggrieved by the direction for deposit of VRS benefits and have accordingly filed the present petition.

2) I have heard Mr. Upadhyay, the learned counsel appearing for the Petitioner and Mr. Bapat, learned Senior Advocate appearing for the Respondents-employer.

3) The direction issued by the Industrial Court appears to be in tune with the principles of law laid down by the Apex Court in its judgment in Mansingh Vs. Maruti Suzuki India Ltd.¹. The Apex Court has held that if an employee accepts the benefits under the VRS and then turns around to question implementation of VR Scheme, such an employee must bring back all the benefits received by him/her out of the VR Scheme. The objective behind laying down this law is that there needs to be some sort of finality to the implementation of VRS Scheme. Under the VR Scheme, retirement is granted as a matter of choice of the employee. Having exercised such choice, it is not open for the employees to question implementation of VR Scheme. However, if one still desires to challenge the VR Scheme, he must bring back the amount received towards implementation of the VR Scheme. In my view, therefore the impugned order passed by the learned Presiding Officer is in tune with the judgment of the Apex Court in Mansingh (supra).

4) Mr. Upadhyay, has strenuously relied on observations made by this Court in para-40 of the judgment in Esselworld Leisure Pvt. Ltd & Ors. Versus. Syam Kashinath Koli & Ors.². Para-40 of the said order reads thus :

40. When the matter was listed before this Court on 3rd July 2023, this Court directed the Respondents to apprise the Court as to whether the Respondents were willing to bring back the amount

1 (2011) 14 SCC 662

2 WP(L)-14887/2023 decided on 29.9.2023

which has been paid to them under the terms of the settlement, which the complainants alleged to have been brought about by way of fraud. On 31st July 2023, Mr. Upadhyay, on instructions, submitted that the Respondents-complainants do not wish to bring back the amount which has been paid to them under terms of settlement, whereupon the petition was heard on merits.

5) In my view, this Court made observations in para-40 for testing the bonafides of the Petitioners for entertaining their petition challenging sale of properties of the Respondents. The observations made in para-40 of the judgment cannot be construed to mean as if this Court has adjudicated the issue of refund of VRS benefits. May be that, this Court utilised the factum of disinclination on the part of the Petitioners to bring back the VRS amount as one of the factors for rejecting the prayer for stay on sale of assets of the employer. However, observations in para-40 of the judgment would not mean that the Industrial Court is precluded from deciding the issue of refund of VRS amount.

6) In my view, therefore the impugned order passed by the Industrial Court is unexceptionable. The same is in tune with the law laid down by the Apex Court in **Mansingh**. No interference is therefore warranted in the impugned order. Writ Petition is therefore **rejected**.

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[SANDEEP V. MARNE, J.]