



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13672 OF 2025

KMC Oiltools India Private Limited

...Petitioner

V/s.

The State of Maharashtra and Ors.

...Respondents

Mr. Surya Prasad Chatterjee *with Mr. Mohan Banerjee and Mr. Mahesh Joshi for the Petitioner.*

Mr. Hamid Mulla, *AGP for Respondent No.1.*

Mr. Valmiky H. Narvekar *for Respondent No.4.*

CORAM: SANDEEP V. MARNE, J.

DATED: 12 JUNE 2026.

P.C.:

1) The Petitioner has filed the present Petition challenging orders dated 10 October 2023 passed on Applications at Exhibit C-4 and Exhibit C-5 in Application (IDA) No.151 of 2021. The Application at Exhibit C-4 was filed seeking deletion of names of Opponent Nos.2 and 3. Application at Exhibit C-5 was filed questioning the maintainability of the Application No.151 of 2021.

2) I have heard Mr. Chatterjee, the learned counsel appearing for the Petitioner, Mr. Mulla, the learned AGP appearing for Respondent No.1

and Mr. Narvekar, the learned counsel appearing for Respondent No.4 and have considered the submissions canvassed by them.

3) It must be observed at the very outset that the Petitioner had earlier filed Writ Petition No.9818 of 2025 challenging orders dated 10 October 2023 passed on Applications at Exhibit-C-4 and C-5. The Petition was however, withdrawn without seeking liberty to file a fresh Petition. The liberty sought while withdrawing the Petition on 23 July 2025 was to take appropriate steps as available to the Petitioner in law. Order dated 23 July 2025 passed in Writ Petition No.9818 of 2025 reads thus:-

1. Heard.

2. Mr. Joshi, learned Advocate for Petitioners seeks leave of the Court to withdraw the present Writ Petition with liberty to take appropriate steps as available to the Petitioner in law. Leave granted. Writ Petition is disposed as withdrawn with liberty as prayed for.

4) The learned counsel appearing for the Petitioner submits that the words '*to take appropriate steps as available to the Petitioner in law*' would mean a liberty to file a fresh Petition. I am unable to agree. The application at Exhibit-C-4 for deletion of names of Opponent Nos.2 and 3 is rejected *inter-alia* on the ground that application was not filed by Opponent Nos.2 and 3. Therefore, there is reason to believe that the Petition was withdrawn with liberty to take out appropriate application before the Labour Court. Similarly, in respect of order on Exhibit-C-5 the Industrial Court has made an observation that the issues as to whether Petitioner is an industry and Respondent is a workman or not can be

framed and decided on merits. This would mean that liberty to take appropriate steps available in law would also mean framing of issue, leading of evidence and decision thereof.

5) In my view, therefore, the present Petition filed after withdrawing Writ Petition No.9818 of 2025, is clearly not maintainable and deserves to be dismissed. Despite pointing out to the learned counsel that the present Petition is not maintainable and is required to be dismissed on account of withdrawal of Writ Petition No.9818 of 2025, the Petition was still pressed before this Court. Detailed submissions are canvassed by the learned counsel appearing for the Petitioner and the court was required to devote time in hearing and deciding the same.

6) So far as order dated 10 October 2023 passed on Application at Exhibit C-4 is concerned, Opponent Nos. 2 and 3 themselves have not sought their deletion from Application (IDA) No.151 of 2021. The said application was filed by Opponent No.1 /Petitioner. Even the present Petition is not filed by Opponent Nos.2 and 3. In my view, therefore, the Labour Court has rightly rejected the Application at Exhibit C-4.

7) So far as Application at Exhibit C-5 is concerned, the same sought dismissal of Application (IDA) No.151 of 2021 on the ground that the Petitioner is not an Industry and the Respondent is not a workman. Mr. Chatterjee has strenuously relied upon designation of the Respondent No.4 as 'Acting Business Manager' in support of his contention that the Respondent No.4 does not fit into the definition of the term 'workman' appearing in Section 2(s) of the Industrial Disputes Act, 1947. However, it

is settled position of law that mere designation of the employee is not determinative of his status and the nature of duties performed by the employee determines his/her status. The exact nature of duties performed by Respondent No.4 would be gathered only after adducing of evidence. The Labour Court has specifically made an observation that issues relating to the status of the Petitioner and Respondent No.4 would be framed and decided. In my view, therefore, the Application at Exhibit C-5 is rightly rejected.

8) In view of the above position, present Petition deserves to be dismissed, both on account of withdrawal of Writ Petition No.9818 of 2025 as well as on merits. Filing of the present Petition is gross abuse of process of law. Therefore, while dismissing the Petition, costs are required to be imposed on the Petitioner.

9) Accordingly, the Petition is **dismissed** by imposing costs of Rs.10,000/- to be paid to Respondent No.4 within a period of four weeks.

[SANDEEP V. MARNE, J.]