

BEFORE SMT. R.S. NIMBALKAR, MEMBER,
INDUSTRIAL COURT, MUMBAI

COMPLAINT (ULP)No.180 of 2021.
(CNR NO.: MHIC01-000452-2021)

Kamgar Aghadi Union,
Mumbai-400 095. ... Complainant.

Versus

Runwal Developers Pvt. Ltd.
& anr. ...Respondents.

O R D E R (Below Exhibit C-5)
(31.07.2024)

01. This is an application filed on behalf of the Respondent No.1 praying for dismissal of the Complaint as the same is not maintainable.

02. It is contended that the Respondent Nos.1 and 2 are neither the principal employer nor the direct employer of the persons listed in Exhibit-A to the Complaint and hence the Complaint is not maintainable and is liable to be dismissed.

03. Complainant by putting an endorsement on the application itself prayed for rejection of the application with costs.

04. In view of the rival pleadings of the parties, following points arise for my consideration and my findings thereon for the reasons recorded thereon are as follows:-

POINTS	FINDINGS
1) Whether the Complaint is required to be dismissed against Respondent Nos.1 and 2?	In the negative.

2) What Order?	As per final Order.
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REASONS

05. Heard the respective parties in the light of their pleadings and material placed on record.

06. Before considering the dispute between the parties, it is imperative to go through the relevant provisions laid down in the Contract Labour (Regulation & Abolition) Act (in short, "**Contract Labour Act**"). As per the provisions of law, it is the duty of the principal employer to ensure payment of wages to contract labour and in case the contractor fails to provide wages or to pay less salary/wages, then the principal employer will be liable for the same. As such, the obligation is on the principal employer to ensure payment of wages to the contract labour. Remedy is given to the principal employer to recover the said amount from the contractor. As such, it makes clear that the liability of the principal employer under the Contract Labour Act is an example of vicarious liability on the owner of the establishment, in the event of default by the contractor.

07. Keeping in mind the said settled position of law, I have minutely considered the factual aspects of the case-in-hand. Admittedly, as per the Complainant, Respondent Nos.1

and 2 are private limited companies indulged in the business of construction and development and having the project at the address of Respondent No.2. It is pleaded by the Complainant that Respondent Nos.1 and 2 have appointed Respondent No.3 as contractor. The concerned employees were working at the project of Respondent No.2. The said fact is not much disputed to both the sides.

08. It is the claim of the Complainant that the concerned employees have not been paid their salary for the period from December 2019 to February 2020, amounting to Rs.1,50,000/-. In the Written Statement filed at Exhibit C-9, the Respondent No.1 has contended that it had given certain job work to Respondent No.3, who is taking job work on work order basis. They have entered into an agreement on principal to principal basis. It is further their contention that they have settled all the bills of the Respondent No.3 as and when it is submitted. Thus, from this pleading, it appears that the Respondent No.1 had given some job work to Respondent No.3. As such, at this pre-mature stage, to come to the conclusion about the liabilities of Respondent Nos.1 and 2, would not be proper, in the light of supra-quoted settled legal position of law. Resultantly, I find no substance in the present Application. Hence, I answer Point No.1 in ***negative*** and proceed to pass

the following Order:-

ORDER

- I) The Application at Exhibit C-5 is rejected.*
- ii) No order as to cost.*

Date:-31.07.2024

*(SMT. R.S. NIMBALKAR)
Member,
Industrial Court, Mumbai.*

Skn/-