

IN THE INDUSTRIAL COURT MAHARASHTRA, AT PUNE**Complaint (ULP) No.247 of 2017****CNR.No.MHIC12-001949-2015**

Hind Kamgar Sanghatana. ... **Complainant.**

V/s.

M/s. Oriental Rubber Industries Pvt. Ltd. ... **Respondent.**

CORAM : Shri. M.R. Kumbhar, Member.

Appearances : Shri G. S. Pol, Advocate for complainant.
Shri A. R. Joshi, Advocate for respondent.

Order Below Exh.U-34
(Dated: 03.04.2018)

Read application filed by complainant union supported with affidavit. Perused say filed by respondent below Exh.C-20. Heard both the Ld. Advocates at length.

2. By this application complainant prayed that direction be given to respondent to produce some original documents in the present complaint.

3. During the course of arguments, the Ld. Advocate Shri G.S. Pol, for complainant union vehemently argued that, after filing the main complaint, the interim relief application is pending and respondent had filed application Exh.C-7 for framing of preliminary issue in respect of workman and court has framed the preliminary issue. He further argued that, the concerned persons are employees of respondent, to show this fact complainant requires to lead evidence and for that purpose some documents are required to be produced before the court. Therefore, complainant has filed some documents below Exh.U-25 and these are xerox copies of originals, and original

copies are in the custody of the respondent. Further argued that, the documents which are filed below Exh.U-25 are xerox copies and the respondent has denied the same. Therefore, to prove the said documents, original documents are required which are in the custody of respondent. Therefore, prayed that this application needs to be allowed and respondent be directed to produce the same on record.

4. On the contrary, Shri R.Y. Joshi, the Ld. Advocate for the respondent argued that list of documents filed below Exh.U-25 is nothing but a fishing & roving enquiry made with a view to latch on to some illegalities. The said list of documents is illegal & against the principles of law. He further argued that documents which are filed by complainant are stolen documents and produced in the court and trying to play fraud & cheating the court in order to get some relief in their favour. Therefore the respondent reserves their right to file FIR against the concerned persons. He further argued that complainant have failed to explain why these documents are required, and the documents sought have been falsely prepared by complainant, and they are seeking these documents in order to get some adverse orders from the court to create false evidence against the respondent. Further argued that these documents are not signed by any officer of respondent. Moreover the documents which are called for at sr. no.1 to 3 are not traceable and respondent is in doubt about its existence, and the remaining documents are robbed from the company and paper of documents are torn out and xerox copies are filed with fabricated signatures. These documents are not relevant to present complaint. Further argued that in respect of documents at sr.no.4, 5 & 6 respondent is ready to produce the same before this court, and prayed that application be rejected.

5. After hearing the submissions made by the Ld. Advocates for parties, the documents which are called for are already filed below Exh.U-25 on record. Before filing the present documents question remains, how the copies of said documents came into custody of complainant. While it is the contention of respondent that these documents are not at all in existence. Under such circumstances it is duty cast upon complainant to prove these documents by leading cogent evidence as per law. If at all documents at sr.no.1 to 3 are not available with respondent, then there is no point to ask them to produce the same. On that account, complainant is permitted to lead secondary evidence to prove these documents before the court if requires. In respect of documents at sr.no.4, 5 & 6 respondent is ready to produce before the court.

6. Under such circumstances, I am of the opinion that application filed by complainant for direction to produce the documents on record is liable to be partly allowed. With this I proceed to pass following order..

:- ORDER :-

1. Application Exh.U-34 is partly allowed.
2. The respondent is hereby directed to produce the documents at sr.no.4, 5 & 6 on record as per their say below Exh.C-20.
3. In respect of documents at sr.no.1 to 3, complainant is permitted to lead secondary evidence, if requires.
4. Case to proceed further.

Sd/-

(M.R. Kumbhar)

Member,

Industrial Court Pune.

Pune :

Dated :03.04.2018.

srw/-