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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6748/2023 & CM APPL. 26396/2023, CM APPL. 45772/2023, CM APPL. 37141/2024 and CM APPL. 29144/2024**

M/S MOETS BAR-B-QUEPetitioner
Through: Mr. Gurbaksh Singh and Mr. V.N. Sharma, Advs.

versus

SH. KAMLAPATI AND 83 ORSRespondents
Through: Ms. Anupama C. Narang, Adv.

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

% **ORDER**
05.07.2024

CM APPL. 29144/2024 [*Consideration of Stay Application*]

1. This is an Application filed on behalf of the Petitioner seeking directions that the Stay Application be heard and decided on 15.05.2024.
2. This Application has become infructuous as the said date has already passed.
3. The Application is accordingly closed.

CM APPL. 37141/2024 [*Application for stay of warrant of attachment*]

4. This is an Application seeking the following prayers:
“a.) The warrant of attachment dated 11.06.2024 issued by Ld. SDM, Defence Colony, New Delhi may kindly be stayed, in the interest of justice.”
5. Learned Counsel for the Petitioner submits that pursuant to the warrant of attachment issued by the SDM, Defence Colony, New Delhi, a



notice for disconnection of electricity and water supply on or before 05.07.2024 at 4 P.M has already been issued to the Petitioner. A copy of the notice has been handed over in Court today. Registry is directed to scan and upload the copy of the notice so that the same remains embedded in the case file.

6. Learned Counsel for the Petitioner submits that with a view to show his *bona fides*, that the Petitioner shall make a payment of a sum of Rs. 30,000/- for each of the 68 workmen whose names are mentioned in Annexure 1 to CM APPL. 45772/2023, will be paid within two weeks from date.

7. In the meantime, let no coercive steps be taken against the Petitioner in pursuance of the Impugned Judgment dated 03.03.2022 passed by the District Court, till the next date of hearing.

8. Learned Counsel for the Respondents submits that there are large recoveries which are due from the Petitioner and she will file an appropriate Reply setting out the amounts as was due, within a period of two weeks.

8.1 Rejoinder, if any, be filed before the next date of hearing.

9. List on 31.07.2024.

CM Appl.45772/2023[Under Section 17-B of the Industrial Disputes Act, 1947]

10. This is an Application filed by the Respondents [68 in number] inter-alia praying that during the pendency of the present proceedings, the Respondents be paid their last drawn wages or minimum wages, whichever is higher.

11. Learned Counsel for the Respondents submits that the minimum wages at present is approximately Rs.21,000/- which is higher than their last



drawn wages. She further submits that the Petitioner has several outlets from which they are operating their restaurants in addition to the one in Defence Colony Market, New Delhi.

12. Learned Counsel for the Petitioner refutes this contention and submits that Section 17-B of the Industrial Disputes Act, 1947, is not applicable as three floors and the basement of their establishment were sealed by the NDMC on 22.12.2017 pursuant to orders of Monitoring Committee appointed by the Supreme Court. Learned Counsel relies upon the provisions of Section 25FFF of Industrial Disputes Act, 1947, wherein it is stated that if, *'the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman under clause (b) of section 25F, shall not exceed his average pay for three months'* and that this payment has already been made.

12.1 Learned Counsel for the Petitioner further submits that sealing of the establishment of the Petitioner will fall under the circumstances *"beyond the control of the employer"*. He seeks to rely upon the Applications filed for de-sealing his establishment, before the Supreme Court which are annexed at Annexure-I to the Writ Petition.

13. Learned Counsel for the Respondents seeks and is granted time to file an affidavit in Rejoinder along with documents that she seeks to rely upon and a computation of the amounts due to each of the Respondents.

13.1 Let the needful be done within a period of three weeks.

14. List on 31.07.2024.

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15. The amended memo of parties dated 24.05.2023 is inchoate and is directed to be taken off the record. The Petitioner is directed to file an



appropriate amended memo of parties comprising of the 68 workmen who have filed the Affidavits with CM APPL. 45772/2023 along with their complete details within two weeks.

16. List on 31.07.2024.

17. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 5, 2024/SA/r

[Click here to check corrigendum, if any](#)