

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 9387 of 2023**

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DINESHKUMAR DHANABHAI BHARVAD**Versus****STATE OF GUJARAT**

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Appearance:**MR. MAULIK M SONI(7249) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2,3,4**

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CORAM:HONOURABLE MRS. JUSTICE MAUNA M. BHATT**Date : 08/06/2023****ORAL ORDER**

Heard learned advocate for the petitioner. He submitted that the application filed by respondent under Section 33-C(2) of the Industrial Disputes Act, 1947 (“the Act” for short) is not maintainable as there is no pre - existing right by the respondent which has been adjudicated. The respondent had made claim of Rs.15 Lakhs with interest @18% for services rendered, for which, no adjudication is done by competent Court of law and, therefore, the application/reply filed by petitioner is required to be decided first in relation to maintainability or otherwise of the recovery application filed by respondent under Section 33-C(2) of the Act. Despite that the Labour Court, Dahod under order dated 23.12.2022 had rejected the application with the observation that the same

shall be decided along with recovery application. In support of his submission, he relied upon the recent decision of Hon'ble Supreme Court in the case of ***Bombay Chemical Industries vs. Deputy Labour Commissioner and Anr.*** reported in ***(2022) 5 SCC 629.***

Considering the submissions, issue **Notice** returnable on 1.9.2023.

Direct service is permitted.

(MAUNA M. BHATT,J)

NAIR SMITA V.