



IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(L) No.-3363 of 2018

Vijeta Projects and Infrastructure Ltd., Ranchi through its Chairman
Sri Pancham Singh, son of late Jung Bahadur, resident of West
Morabadi Grounds, Ranchi

...Petitioner

-V e r s u s-

Abhijit Gosh

Son of Shiv Shankar Ghosh, resident of Booti, Ranchi

.... Respondent

CORAM: - HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner :- Mr. Rohitashya Roy @ Rohit Roy, Advocate

For the Respondent :-

Order No.-03**Dated: 20.08.2018**

The present writ petition has been filed for quashing the order dated 07.12.2017 passed by the Presiding Officer, Labour Court, Ranchi in P.W. Case No. 07 of 2016 by reasons of which it has been held that the said court has jurisdiction to hear and try the case even though the respondent- Abhijit Gosh was never employed at Ranchi and further to direct the learned court below to adjudicate the application dated 22.09.2016 afresh whereby a preliminary objection has been raised by the petitioner regarding maintainability of the application filed by the respondent under Section 15 and 16 of the Payment of Wages Act, 1936 (in short to be referred as "the Act, 1936").

2. Heard learned counsel for the petitioner and perused the contents of the writ petition.

3. Learned counsel for the petitioner submits that the respondent filed an application under Section 15(2) and 16 of the Act, 1936 in the Labour Court, Ranchi on 05.03.2016, which was registered as P.W. No. 07 of 2016. In the said application, it was prayed inter alia by the respondent that he has not been paid the wages by the petitioner amounting to Rs.2,70,000/-. The respondent also prayed for compensation to the extent of Rs. 29,70,000/-. According to the petitioner, in addition to filing show cause reply, it also preferred an application before the Labour Court, Ranchi on



22.09.2016 challenging the maintainability of the said application filed by the respondent on the ground that the respondent was never employed in Ranchi. Rather, he was initially employed in Dhanbad and thereafter in Deoghar. The grievance of the petitioner is that though the regular steps were being taken on its behalf before the learned court below, but on 07.12.2017, the learned lawyer for the petitioner could not remain present. The respondent also did not appear before the learned court below on the said date. Irrespective of the fact that no one appeared on behalf of the parties, the learned court below rejected the petitioner's application dated 22.09.2016 on merit. The rejection of the application dated 22.09.2016 by the learned court below on merit without hearing the learned counsel for the petitioner has adversely affected the interest of the petitioner as the preliminary issue regarding territorial jurisdiction of the court has rightly been raised in terms of the provisions of Section 3(d) of the Act, 1936.

4. On perusal of the impugned order dated 07.12.2017, it appears that no one appeared on behalf of the parties on the said date. The case was fixed for order on the application dated 22.09.2016 preferred by the petitioner raising preliminary issue regarding territorial jurisdiction of the court. The order dated 07.12.2017 does not suggest that there had been repeated non-appearance on behalf of the petitioner in the said case. If no one had appeared on behalf of the parties on 07.12.2017, the learned court below should have, at least, provided one more opportunity to the parties to present their respective cases indicating the same in the order. Thus, in my considered opinion, the learned court below was not justified in dismissing the application preferred by the petitioner dated 22.09.2016 on merit despite the fact that nobody appeared on behalf of the parties on the said date.

5. In view of the said fact, the impugned order dated 07.12.2017 passed by the Presiding Officer, Labour Court, Ranchi in P.W. Case No. 07 of 2016 is set aside. The matter is remanded to the said court for passing a fresh order on the application dated 22.09.2016 preferred by the petitioner. The petitioner and the respondent shall



ensure their presence on the date fixed by the learned Labour Court, Ranchi for hearing and adjudicating the application dated 22.09.2016. For ensuring the presence of the respondent, the learned court below may issue a fresh notice to him, if so required.

6. The writ petition is accordingly disposed of.

Ritesh

(Rajesh Shankar, J.)