

23.11.2022.  
Item No.2  
Court No.550  
Saswata

**W.P.A. 18575 of 2022**  
**M/s Kesoram Industries Limited**  
**Versus**  
**Sukhdham Pandey & Anr.**

Mr. Soumya Majumder  
Mr. Malay Kumar Seal  
Mr. Sudip Kundu

... For the petitioner

Mr. Samim Ahamed

...For the respondent no. 1

Mr. Ansar Mondal  
Ms. Srilekha Bhattacharya

...For the State

The present writ application pertains to a challenge, to an award dated 29<sup>th</sup> March 2022 passed by the Learned 2<sup>nd</sup> Industrial Tribunal, West Bengal. Mr. Majumder, learned advocate representing the petitioner, submits that there was no employee-employer relationship between the petitioner on one hand and the private respondent on the other hand and as such, no award could have been passed against the writ petitioner.

Drawing the attention of this Court to an order passed under Section 391 (2) and 394 of the Companies Act, 1956 dated 21<sup>st</sup> September 1999, it is submitted that by the aforesaid order, the entire assets and properties including the employees and other liabilities of the textile division of the writ petitioner stood transferred and vested with M/s Kesoram Textile Mills Limited (hereinafter referred to as the scheme of arrangement). He says that the private respondent was engaged by the M/s Kesoram Industries and Cotton Mills later name changed to M/s Kesoram Industries Ltd. Since the private respondent was in the textile division of M/s Kesoram Textile Mills

consequent upon passing of the aforesaid order, the services of private respondent stood transferred to M/s Kesoram Textile Mills Limited.

Mr. Majumder further submits that the Tribunal did not take into consideration the aforesaid scheme of arrangement sanctioned by this Court in its proper perspective, notwithstanding the same is binding on him. In the facts of the present case, he prays that the award passed by the Tribunal should not be given effect to, till disposal of the instant writ application.

Mr. Ahmed, learned advocate appearing for the private respondent submits that the private respondent, at material point of time, discharged his duties as an employee of the writ petitioner. He was posted at the head office of the writ petitioner. Drawing the attention of this Court to a certificate dated 3<sup>rd</sup> February 1995, issued by the Kesoram Industries Limited, he submits that the management of Kesoram Industries, had certified the private respondent to be working at the head office. According to the private respondent, only those employees who were working at the factory premises of M/s Kesroam Industries Ltd. at 42, Garden Reach road, Calcutta-700 024, were engaged as employees of the textile division, whose services have since been transferred to the Kesoram Textile Mills Limited. He says that there is no irregularity in the order passed by the Tribunal.

Having heard the submissions made by the respective parties and taking into consideration the

materials on record, I am of the view that the present writ application requires to be heard.

Let affidavit-in-opposition to the present writ application be filed within one week from date. Reply, thereto, if any be filed two weeks thereafter.

The respondents are restrained from taking any steps and/or taking further steps for enforcing the aforesaid award dated 29<sup>th</sup> march, 2022, till the end of February 2023 or until further orders whichever is earlier.

List the matter in the monthly list of January 2023 under the heading “for hearing.

**(Raja Basu Chowdhury, J.)**