

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

I.A. No.1 in and

Petition(s) for Special Leave to Appeal (Civil)...../2006

(CC 2052/2006)

(From the judgement and order dated 27/09/2005 in A.No.730/2005 in

WP No.1284/2005 of The HIGH COURT OF BOMBAY)

LAXMAN BHAIRU NIKAM & ORS.

Petitioner(s)

VERSUS

MODERN HOME CREDIT & CAPITAL LTD. & ORS.

Respondent(s)

(For permission to file SLP and office report)

Date: 07/08/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner(s)

Mr. Arshad Sheikh,Adv.

Ms. Aparna Bhat,Adv.

Mr. P. Ramesh Kumar,Adv.

For Respondent(s)

Mr. K.K. Singhvi,Sr.Adv.

No.1:

Mr. S.C. Paranjape,Adv.

Mr. Sanjeev Puri,Adv.

Mr. Rohit Puri, Adv.

Mr. N. Ganpathy, Adv.

UPON hearing counsel the Court made the following

O R D E R

We are not inclined to grant permission to the applicants to file this special leave petition.

The Industrial Court, in terms of the Award dated 16th November, 2004, and 5th December, 2004, disposed of the References on settlement between the recognised Union and the Management. The applicants

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were admittedly members of the said Union. The applicants claim that the settlement by the Union was entirely illegal, the Union even having given up the statutory claims of the applicants, like gratuity, and tendered their resignations retrospectively after eleven years. The application filed by the applicants before the Industrial Court was, however, dismissed by the Industrial Court on 25th February, 2005. Instead of the applicants, a writ petition was filed in the High Court by the Akhil Bharatiya Kamgar Sena [Writ Petition No.1284 of 2005]. The petition was dismissed by a learned

Single Judge in terms of the order dated 4th July, 2005, inter alia, observing that the settlement is binding on the workmen under Section 18 of the Industrial Disputes Act. The intra-court appeal has also been dismissed by the Division Bench of the High Court in terms of the order dated 27th September, 2005. According to the applicants, the said Sena had filed the writ petition and the appeal on behalf of the applicants' Union. The Sena has now been made a proforma respondent and the workmen seek permission of this Court to file this special leave petition. They also seek permission to implead Bombay Labour Union as a party-respondent. One of the reasons for the dismissal of the writ petition and the appeal by the High Court was that the Union against whom serious allegations were being made by the petitioners was not even impleaded as party-respondent in the writ petition.

For the first time in this petition under Article 136 of the Constitution of India, we cannot permit the applicants to implead Union as a party-respondent and grant permission to them to file this special leave petition.

The learned counsel for the applicants, under these circumstances, submits that the application seeking permission to file the special leave petition

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and the special leave petition may be permitted to be withdrawn so that the applicants can file an appropriate petition before the High Court impleading the Union also as a party-respondent. We permit the withdrawal, as prayed. In case, such a petition is filed, the same will be dealt with by the High Court in accordance with law. We express no opinion.

For the above reasons, we decline the permission to file this special leave petition.

[T.I. Rajput]

A.R.-cum-P.S.

[Khushi Ram]

Court Master