

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 462 OF 2016

Smt.Dipti Milan Shah
vs.
Anand D. Shelar

...Petitioner
....Respondent

Mr.S.C. Naidu with Manoj Gujjar and T.R. Yadav and Aniketh Poojari I/b. M/s.C.R. Naidu & Co. for Petitioner.
Mr.R.D. Bhat for Respondent.

CORAM : S.C. GUPTA, J.

26 JULY 2016

P.C. :

Heard learned Counsel for the parties.

2 The petition challenges a remand order passed by the Industrial Court, directing the Labour Court to consider a complaint afresh. The matter requires consideration, since *prima facie* the impugned order of the Industrial Court in effect reopens an issue, which has already been concluded.

3 At the address of the Petitioner's firm, there are seven different firms operating. These firms have different partners, though some of them are common. Initially, this complaint, which complains of an unfair labour practice, was filed against all seven firms. Subsequently, however, this court directed deletion of the other six firms and the complaint to proceed only against one particular firm, namely, Packages Gasket Products. The Respondent employee worked with this firm. The Respondent employee worked with this firm. (This firm is constituted by three partners, namely, Deepak B. Shah, Milan B. Shah and Tushar B. Shah.) This order has since been affirmed by both the Division Bench of this Court and the Supreme Court. It is the case of the employer that the firm of Packages Gasket Products has been dissolved and its business wound up. It is, however, the Respondent employees' case that the same business is being

carried on through the other firms of family members of the partners and on that basis, it is claimed that there is, in fact, no closure of business. This appears to be the basis for remanding the complaint to the Labour Court by the impugned order of the Industrial Court. The order of the Labour Court has considered the issue as to whether there was an unfair labour practice committed by the firm of Packages Gasket Products by terminating the Respondent herein under the garb of closure. The Labour Court found against the complainant and dismissed the complaint. *Prima facie*, the remand seems to be on an impermissible ground, since the issue of liability of other six businesses or any of them in respect of the Respondent's termination appears to have been already concluded. Hence, Rule and interim relief in terms of prayer clause (b).

4 The Respondent waives service.

5 Considering the fact that the complaint is of the year 1992, the hearing of the petition is expedited. The parties shall be at liberty to mention the matter in the third week of September 2016 for fixing a date of hearing.

(S.C. Gupte, J.)