

Ram Singh and Others Vs Ashoka Iron Foundary and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 1, 1992

Acts Referred: Trade Unions Act, 1926 " Section 18

Citation: (1993) 1 LLJ 987 : (1993) 103 PLR 49

Hon'ble Judges: N.K. Kapoor, J

Bench: Single Bench

Advocate: C.B. Goyel and R.C. Chauhan, for the Respondent

Final Decision: Dismissed

Judgement

N.K. Kapoor, J.

This revision-petition is against the order of the courts below whereby the petitioners have been restrained from holding

meetings, demonstrations, stage dharnas in the premises of the plaintiff-firm and within a radius of 50 meters from the same and are also restrained

from damaging the buildings and property of the plaintiff as well as restrained from preventing the entry of other workers in the premises belonging

to the plaintiff-firm till the final decision of the case.

2. Briefly stated, M/s. Ashoka Iron Foundary filed suit for permanent injunction restraining the defendants-petitioners from holding any meetings,

demonstrations, dharnas etc. in any manner in and around the factory premises and within a radius of 100 meters and also restraining them from

obstructing the plaintiffs, its staff members or other visitors or to damage the; property and also restrain them from preventing the entry of other

workers or creating such hurdles in its working.

3. The plaintiffs further averred that defendants No. 1 to 18 are its employees, whereas defendants No. 19 and 20 are Secretary and President

respectively. It was further case of the plaintiff that on account of financial crisis, defendants No. 1 to 18 were retrenched after complying with the

provisions of the Industrial Disputes Act.

4. Defendants put in appearance, controverted the various averments made in the plaint and further averred that the suit is mala fide, that civil court

has got no jurisdiction and the plaint does not disclose any cause of action. It was further averred that the services of the petitioners have been

dispensed with as they had claimed the enhancement of their wages.

5. During the consideration of the interim injunction application filed under Order 39 Rules 1 and 2 of the Code of Civil Procedure, counsel for the

defendants mainly resisted on the ground that the present suit is not maintainable in view of Section 18(1) of the Trade Unions Act, 1926 which

provides that no suit or other legal proceedings shall be maintainable in any civil court against any registered trade union or any office bearer or

member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on

the ground only that such act induces some other person to break a contract of employment etc. and in support of this, reliance was placed upon

the Federation of Western India Cine Employees Vs. Filmalaya Pvt. Ltd., .

6. Counsel for the plaintiff, however, on the either hand contended that all the same the same does not authorise to do any illegal act or adopt

violent measure to do any act in contemplation or furtherance of a trade dispute. In support of his contention, he referred to the judgment of the

Delhi High Court reported as Engineering Projects Private Limited v. Engineering Project Private Limited Employees Union 1986-Lab-IC. 1266

wherein the defendants were restrained from holding any meetings or shouting any slogans in the office premises of the plaintiff company and within

a radius of 50 meters from the same. Similarly, the defendants were restrained from preventing the officers, visitors and clients of the company

from entering or going out of the premises of the plaintiff. The trial court after hearing the learned counsel for the parties and perusing the judicial

pronouncements cited by both the counsels came to a prima-facie conclusion that the plaintiff has a right to protect his property and balance of

convenience also lies in restraining the defendants from holding meetings, stage dharnas in the premises of the plaintiff-firm and so passed a restrain

order preventing them from doing such activities in the premises of the plaintiff firm and within a radius of 50 meters and also from damaging the

building as well as restraining them from preventing the workers to enter the premises of the plaintiff-firm. This order was challenged in appeal and

the appellate court too after considering the relevant material on record found no merit in the appeal and consequently affirmed the interim

injunction granted by the trial court.

7. Before me, Mr. Hari Parkash, President of the Union came present and submitted that written arguments in support of his contentions which are

also in file be perused. In addition, he placed on record additional written arguments today.

8. I have carefully perused the impugned orders of the courts below and the written arguments submitted by the petitioners.

9. Much emphasis has been laid by the petitioners to the effect that jurisdiction of the civil court in the context of the present dispute is totally

barred and for this, main emphasis is upon Section 18(1) of the Trade Unions Act, 1926-reference to which has already been made in the earlier

part of the judgment. This precise point has been considered by both the courts in detail. Both the courts have relied upon the judgment of the

Delhi High Court reported Association of State Road Transport Undertakings Vs. Association of State Road Transport Undertakings Employees"

Union and others, wherein it has been held that a suit for perpetual injunction restraining the workman from indulging in unfair labour practice is

deemed as one of civil nature and so cognizable u/s 9 of the Code of Civil Procedure. I also find this objection of the petitioners without any

merit. As per averments in the plaint, dispute per se appears to be of civil nature and the court has rightly taken the cognizance of the same. Vide

the impugned orders, the courts have merely restrained the defendants, on whose behalf the present petition has been filed, from holding any

meetings, demonstration, sitting on dharnas in and around the premises of the plain-Miffs and within a radius of 50 meters from the premises of the

plaintiff and also from interfering or obstructing with the right of the plaintiffs, its staff, visitors, clerks etc. and also from damaging the building and

also restraining the defendants from preventing entry of other workers. Such a restrain order cannot be construed either as unjust or amounting to

curtailing the just trade union activities of the defendants. With the above mentioned stipulation, the defendants are at liberty to carry on their

legitimate trade union activities peacefully. The impugned orders are thus perfectly legal and just and do not suffer from any illegality. The revision-

petition is wholly without merit and the same is dismissed. No costs.