

(2011) 03 KL CK 0253

High Court Of Kerala

Case No: WP (C) No. 6778 of 2011 (V)

The Kerala State Co-Operative
Rubber

APPELLANT

Vs

The Co-Operative Arbitration
Court and Smt. Leelamma
Augustine, Junior

RESPONDENT

Date of Decision: March 4, 2011

Hon'ble Judges: Antony Dominic, J

Bench: Single Bench

Advocate: K. Ramakumar, for the Appellant; No Appearance, for the Respondent

Final Decision: Dismissed

Judgement

Antony Dominic, J.

Petitioner challenges Ext.P3 award rendered by the 1st Respondent. The facts of the case are that the 2nd Respondent filed Ext.P1 plaint before the 1st Respondent, which was registered as ARC 8/09. The prayers in the plaint are as follows:

- i) pass an award or order declaring that Annexure IV order of suspension of the Plaintiff and the entire disciplinary action taken against her are illegal, arbitrary and abillities void.
- ii) pass an award or issue an order or direction commanding the Defendant to treat the suspension period of the Plaintiff from 23/1/2007 to 28/5/2008 as duty for all purposes and grant her all consequential benefits including full salary and allowances.
- iii) pass an award or issue an order or direction commanding the Defendant to forthwith release the subsistence allowance due to the Plaintiff for the months of April and May 2008.

- iv) pass an award or issue an order or direction commanding the Defendant to grant the Plaintiff all service benefits as if Annexures IV, X and XIII were never issued at all.
- v) direct the Defendant to produce the originals of Annexures 1 to XV before this Hon"ble Court. and
- vi) grant such other relief's as this Hon"ble Court deems fit and proper in the circumstances of this case including the cost of this Arbitration Petition.

2. In the ARC, Petitioner filed Ext.P2 application raising a preliminary objection regarding the maintainability of Ext.P1. According to the Petitioner, the claim ought to have been raised only u/s 69 of the Kerala Co-operative Societies Act and not by way of plaint before the 1st Respondent. This contention of the Petitioner was considered and and was rejected by Ext.P3. It is Ext.P3 order, which is under challenge.

3. Learned Senior counsel for the Petitioner reiterated the submissions made before the 1st Respondent on the issue of maintainability of Ext.P1 and contended that Ext.P3 order is unsustainable. However, in my view, Ext.P3 is only a preliminary one and is not a final decision taken by the 1st Respondent, and therefore, even if the Petitioner is aggrieved, the remedy available to the Petitioner is to await for the final adjudication of the dispute. As held by the Apex Court in D.P. Maheshwari, v. Delhi Admn. and Ors. AIR 1984 SC 153, forums such as the 1st Respondent have been created by special statutes for speedy adjudication of issues which are left within the jurisdiction of such forums. If such speedy adjudication is allowed to be stopped by this Court entertaining the challenges against preliminary orders such as Ext.P3, the very intention of the legislature in creating such special forums will get frustrated. In that view of the matter, I am not inclined to entertain the writ petition at this stage. Therefore, the writ petition is dismissed clarifying that it will be open to the Petitioner to await for final adjudication of the plaint and raise its contentions even on the sustainability of Ext.P3 at that stage.