

Jasim Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1092818

Court : Kerala

Decided On : Oct-03-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Jasim

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN THURSDAY, THE 3D DAY OF OCTOBER 2013 11TH ASWINA, 1935 WP(C).No. 23501 of 2013 (K)
----- PETITIONER : ----- R.P.C PAPER MILLS PRIVATE LIMITED MANALIL P O, MANALIL, PUNALUR KOLLAM DISTRICT, PIN-691312, REPRESENTED BY ITS MANAGING DIRECTOR BY ADV. SRI.M.V.THAMBAN RESPONDENTS : -----

1. THE SUPERINTENDANT OF POLICE (RURAL) OFFICE OF THE SUPERINTENDENT OF POLICE (RURAL) KOTTARAKKARA, KOLLAM DISTRICT, PIN-691001

2. THE DEPUTY SUPERINTENDENT OF POLICE PUNALUR, KOLLAM DISTRICT, PIN-691305

3. THE CIRCLE INSPECTOR OF POLICE PUNALUR POLICE STATION, KOLLAM DISTRICT,PIN-691305
4. THE SUB INSPECTOR OF POLICE PUNALUR POLICE STATION, KOLLAM DISTRICT,PIN-691305
5. RPC PAPER MILL WORKERS UNION (AITUC) MANALIL P O., MANALIL, PUNALUR, KOLLAM DISTRICT PIN-691312, REPRESENTED BY ITS SECRETARY SHRI.SABU V. GEORGE RESIDING AT VADUTHALA PUTHEN VEEDU MANALIL P O, YEROOR, KOLLAM DISTRICT, PIN-691312
6. SHRI. K. ANIMON, PRESIDENT, MANALIL RPC PAPER MILL WORKERS UNION (AITUC) RESIDING AT PODIVILA VEEDU ARCHAL, ANCHAL P O, KOLLAM DISTRICT PIN-691306
7. SABU V. GEORGE, SECRETARY, RPC PAPER MILL WORKERS UNION (AITUC) RESIDING AT VADUTHALA PUTHEN VEEDU MANALIL P O, YEROOR, KOLLAM DISTRICT, PIN-691312 ...2/- WP(C).No. 23501 of 2013 (K) -2-
8. MANALIL RPC PAPER MILL WORKERS UNION (CITU) MANALIL P O, MANALIL, PUNALUR KOLLAM DISTRICT, PIN-691312, REPRESENTED BY ITS SECRETARY SHRI LAL P S, RESIDING AT SREE SADANAM, KAMUKUMCHERRY AVANEESWARAM P O, KOLLAM DISTRICT, PIN-691508
9. SHRI T. AJAYAN, PRESIDENT MANALIL RPC PAPER MILL WORKERS UNION (CITU) RESIDING AT PLAVILA KIZHAKKETHIL ARCHAL, NEDIYARA, KOLLAM DISTRICT PIN-691306
10. SHRI. LAL P S., SECRETARY MANALIL RPC PAPER MILL WORKERS UNION (CITU) RESIDING AT SREE SADANAM KUMUKUMCHERRY,AVANEESWARAM P.O., KOLLAM DISTRICT PIN-691508
11. THE DEPUTY LABOUR OFFICER PUNALUR , PUNALUR P.O., KOLLAM DISTRICT PIN-691305 R1 TO R4 BY SR. GOVT. PLEADER SRI. SOJAN JAMES R5 TO R10 BY ADV. SRI.ANCHAL C. VIJAYAN THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON0310-2013, THE COURT ON THE SAME

DAY DELIVERED THE FOLLOWING: Mn ...2/- WP(C).No. 23501 of 2013 (K)

----- APPENDIX PETITIONERS' EXHIBITS :

----- EXT. P1:- TRUE COPY OF THE FIR IN CRIME NO. 1574/2013 OF PUNALUR POLICE STATION. EXT. P2:- TRUE COPY OF THE COMPLAINT DTD. 14/9/2013 FILED BY THE DIRECTOR OF THE PETITIONER BEFORE THE4H RESPONDENT. EXT. P3:- TRUE PHOTOCOPY OF THE NEWSPAPER REPORT APPEARED IN MALAYALA MANORAMA DAILY DTD209/2013. EXT. P4:- TRUE COPY OF THE COMPLAINT DTD. 21/9/2013 FILED BEFORE THE4H RESPONDENT. EXT. P5:- TRUE COPY OF THE COMPLAINT DTD199/2013 FILED BEFORE THE11H RESPONDENT. EXT. P6:- TRUE COPY OF THE APPLICATION DTD219/2013 FILED BEFORE THE DISTRICT LABOUR OFFICER, KOLLAM. EXT. P7:- TRUE COPY OF THE INFORMATION DTD239/2013 GIVEN BY THE PUBLIC INFORMATION OFFICER, DISTRICT LABOUR OFFICE, KOLLAM. EXT.P8:- COPY OF THE TRIPARTITE AGREEMENT DT. 23.7.2010. EXT.P8(a):- COPY OF THE AGREEMENT DATED255.2013. EXT.P9:- COPY OF THE NOTICE ISSUED BY THE4H RESPONDENT DT. 2.9.2013. EXT.P10:- COPY OF THE NOTICE ISSUED BY THE8H RESPONDENT DT. 24.8.2013. RESPONDENT(S)' EXHIBITS

: ----- EXT.R5(a) COPY OF THE CHELLAN SHOWING REMITTANCE MADE FOR REGISTRATION OF5H RESPONDENT TRADE UNION DATED95.2013. EXT.R5(b) COPY OF THE AGREEMENT ENTERED IN TO BETWEEN THE REPRESENTATIVES OF THE PETITIONER AND THE LEADERS OF RESPONDENTS5AND8TRADE UNIONS BEFORE THE11H RESPONDENT DATED37.2010. EXT.R5(c) A LIST OF34WORKERS WITH THE BASIC WAGE, DAILYALLOWANCE AND YEARS OF SERVICE FOR REFERENCE. EXT.R5(d) A LIST OF7SKILLED WORKERS ISSUED BY THE PETITIONER FOR THE PURPOSE OF REGISTRATION OF TRADE UNION. (Contd...) WP(C).No. 23501 of 2013 (K) EXT.R5(e) PAY SLIP OF7H RESPONDENT ISSUED BY THE PETITIONER FOR THE MONTH OF JANUARY2013 EXT.R5(f) PAY SLIP OF7H RESPONDENT FOR THE MONTH OF FEBRUARY2013 EXT.R5(g) PAY SLIP OF LATHA HAVING14YEARS SERVICE FOR THE MONTH OF JUNE2012 EXT.R5(h) PAY SLIP OF RADHAMONY FOR THE MONTH OF JUNE2012 EXT.R5(i) COPY OF THE PAY

SLIP OF SABEENA WITH SIX YEARS SERVICE FOR THE MONTH OF JUNE 2012 EXT.R5(j) COPY OF THE REQUEST MADE BY THE 5H RESPONDENT DATED 25.7.2011 TO THE MANAGEMENT FOR ENHANCEMENT OF WAGES OF THE LADY WORKERS. EXT.R5(k) COPY OF THE REQUEST MADE BY THE 5H RESPONDENT DATED 29.2.2013 TO THE PETITIONER. EXT.R5(l) COPY OF THE REQUEST MADE BY THE 8H RESPONDENT DATED 24.8.2013 TO THE PETITIONER. EXT.R5(m) COPY OF THE REQUEST MADE BY THE 5H RESPONDENT DATED 19.9.2013 TO THE 11H RESPONDENT. //TRUE COPY// P.S. TO JUDGE Mn S. Siri Jagan & K. Ramakrishnan, JJ.

----- W.P(C) No. 23501 of 2013 -----
----- Dated this, the 3rd day of October, 2013.

JUDGMENT

Siri Jagan, J.

The petitioner is a company engaged in the business of production of paper. Regarding certain demands raised by respondents 5 and 8 Unions, there are disputes between the petitioner and respondents 5 to 10. A section of the workers under the leadership of respondents 5 to 10 have started agitation in respect of their demands. The matter has been referred to the 11th respondent under Section 12 of the Industrial Disputes Act. The petitioner has filed this writ petition alleging that in the name of strike, respondents 5 to 10 and their men are obstructing the functioning of the factory, despite the fact that there are willing workers who want to work. Although the petitioner sought police help to avert the threat, the police took a benign stand in the matter. It is under the above circumstances the petitioner has filed this writ petition seeking the following reliefs: "i. To issue a writ of mandamus or other writ or order directing respondents 1 to 4 to provide adequate police protection to the life and properties of the employees, labourers and other functionaries of the petitioner factory, from any threat by respondents 5 to 10 and their henchmen. ii. To issue a writ of mandamus or other writ or order directing respondents 1 to 4 to provide adequate police protection to the smooth functioning of the petitioner Paper Mill without any threat by

respondents 5 to 10 and their henchmen or any obstruction from them." 2. A counter affidavit has been filed by respondents 5 to W.P(C) No. 23501 of 2013 -:

2. :- 10 justifying their stand. They would contend that they have been unjustly denied benefits due to them and the petitioner is taking an adamant stand in respect of their claims, which, according to respondents 5 to 10, are unfair labour practice. It is further contended that although the petitioner himself has raised a dispute in the matter by addressing the 11th respondent in the matter, in the conciliation proceedings convened by the 11th respondent, the petitioner took an adamant stand that they will not in any way agree to the demands made by respondents 5 to 10. But, at the same time, the learned counsel would submit that they are not destructing the functioning of the factory, but are only peacefully demonstrating for their demands.

3. We have considered the rival contentions in detail.

4. Both sides have advanced lengthy arguments about the justifiability of their contentions. We are of opinion that the correctness of those submissions cannot be considered by us in a petition for police protection. Those questions have to be considered by the authorities under the Industrial Disputes Act. The same is beyond the scope of a petition for police protection.

5. We have no doubt that the unions and workmen have a right to agitate for their demands. But, that cannot extend to the obstruction of the functioning of the factory itself, insofar as they have no right to obstruct the functioning of the factory in the name of pressing for their W.P(C) No. 23501 of 2013 -:

3. :- demands. That would amount to taking law into their own hands. At the same time, the petitioner cannot take an adamant stand before the conciliation officer to the effect that they will not be amenable to any compromise in the matter. They are bound to participate in the conciliation proceedings reasonably with an open mind. In the above circumstances, this writ petition is disposed of with the following directions: The submission of the learned counsel for respondents 5 to 10 that they have not and they will not make any obstruction to the functioning of the factory is recorded. If, contrary to the said submission, there is any threat from

the side of respondents 5 to 10 or anybody claiming under them, respondents 1 to 4 shall provide adequate police protection to the life and properties of the employees, labourers and other functionaries of the petitioner's factory from any threat by respondents 5 to 10 and persons claiming under them. However, this is subject to the condition that the petitioner shall participate in the conciliation proceedings convened by the 11th respondent. If the 11th respondent has already concluded the conciliation proceedings, he shall once again attempt conciliation between the parties and the petitioner shall positively take part in the conciliation proceedings with an open mind and not a closed mind. If the petitioner does not do so, the petitioner will not be entitled to the benefit of this judgment. If the members of respondents 5 and 8 unions W.P(C) No. 23501 of 2013 :-

4. :- submit in writing their willingness to work, they shall be permitted to work. But, if they are willing to work, they cannot stage demonstration in front of the factory. In such event, they will have to resort to their remedies under the provisions of the Industrial Disputes Act for redressal of their grievances. Sd/- S. Siri Jagan, Judge.
Sd/- K. Ramakrishnan, Judge. Tds/

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