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J.K. Industries and anr. Vs. Patroit Link Workers Union (Regd.) and ors.

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Court : Delhi

Decided On : Mar-18-1998

Reported in : 1998IIIAD(Delhi)565; 72(1998)DLT454; 1998(45)DRJ334

Judge : J.B. Goel, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 39, Rules 1 and 2

Appeal No. : IA Nos. 8610 of 1996, 6506 of 1997 & 11586 of 1997 in S.No. 2283 of 1996

Appellant : J.K. Industries and anr.

Respondent : Patroit Link Workers Union (Regd.) and ors.

Advocate for Def. : Ms. Sunita Bhardwaj and ; Mr. Rajendra Dhawan, Adv.

Advocate for Pet/Ap. : Mr. S.K. Kaul, Adv

Judgement :

J.B. Goel, J.

1. The aforesaid three applications have been filed by the plaintiff in a suit for permanent injunction.

2. The case of the plaintiffs briefly is that they are tenant in property bearing plot No. 3, Bahadur Shah Zafar Marg, New Delhi, also known as Link House owned by

defendant No. 5 in respect of first floor (part), second floor (part), third floor, fourth floor and fifth floor whereas part of ground floor and other part of the first floor is occupied by Central Bank of India and basement and the remaining portion of the ground floor is in occupation of defendant No. 5. Defendant No. 1 is a union of the employees of defendant No. 5; and defendant Nos. 2, 3 and 4 are its office bearers, being President, General Secretary and Secretary. Due to dispute between defendant No.5 and its workers, there is lock out in defendant No.5 and defendant No. 5 is working from its camp office at Janpath. The electricity, water and telephones installations meant for the use in building are in the basement.

3. The telephone lines of the plaintiff had gone out of order in July, 1996 but due to closure of basement, telephone lines could not be rectified and when the staff of MTNL had come to rectify the telephone connections on 11.9.1996, defendants 1 to 4 locked the staff in the basement who were freed after a complaint was lodged with the police. Again on 16.9.96 de-fendants 2 to 4 Along with their other co-employees stopped the entry of their staff in the premises, and physically prevented their ingress and egress, threats of bodily harm were also given, and it was only after a complaint was lodged with the police at about 1.00 p.m. that the staff was allowed to enter the premises but with threats to repeat this in future also. Lifts provided in the building were also stopped, causing great inconvenience to the staff of the plaintiff. The amenities of telephone, electricity, water etc. provided to which plaintiff is entitled uninterruptedly and apprehending stoppage there of, the plaintiff has sought injunction for preventing defendants from interfering with these facilities and from holding any demonstration within 250 yards of the premises.

4. Defendants 1 to 4 have filed written statement denying the allegations made in the plaint; it is alleged that plaintiffs are acting in collusion with defendant No. 5 who wanted to get rid of them by illegal lock out and that except making symbolic protests in a peaceful manner against the in activity of the management, they have not in any way caused any hindrance or obstruction to anybody and the suit for injunction is misconceived, not bona fide and is not maintainable. Defendant No. 5 has also filed written statement denying their involvement in these activities of defendants.

5. Along with the suit the plaintiff had filed an application being is No. 8610/96 under Order 39, Rules 1 & 2 seeking interim injunction. Vide order dated September 27, 1996 the defendants were restrained from causing any hindrance in ingress and egress to the staff of the plaintiff. Another is No. 6506/97 under Order 39, Rules 1 and 2 was filed by the plaintiff alleging that the defendants 1 to 4 had started switching off the supply of water and electricity, as these installations, water pump, as also the water tank are located in the basement which are in their control for which they had lodged a complaint with the police and seeking further injunction from obstructing these supplies and operation of the lifts. On this application, an undertaking was given by the Counsel of defendants 1 to 4 under their instructions that they shall not cause any obstruction in the supply of these amenities. The plaintiff has made another application I.A. No. 8049/97 under Order 39, Rule 2A, CPC complaining that supplies of water and electricity and lifts were stopped and that their staff was not being allowed to enter the basement for restoring these supplies. Yet another application being is No. 11586/97 under Order 39, Rules 1 & 2, CPC was filed again complaining that in spite of interim orders there has been stoppage of supplies of electricity and water, lift facilities and preventing their staff ingress and egress. It is also alleged that on 22.9.97, the lever of the transformer was found removed and the electricity supply was cut off and they had to provide a diesel generator but it is not meeting their needs and even water is being purchased from outside; again injunction is sought against the defendants from entering the basement and to restore these essential services and to permit the plaintiff to take control of these essential services. Replies to these various applications have been filed denying the allegations made by plaintiff. Replies are mostly evasive.

6. I have heard learned Counsel for the parties.

7. Learned Counsel for the plaintiff has contended that the plaintiff is a tenant and as part of tenancy premises they are entitled to the amenities of water, electricity, telephone facility, use of lifts and ingress and egress to the premises; but as there is dispute between defendant No. 5 and its employees resulting in lock out, the defendants 1 to 4 in retaliation are using coercive methods to cause harassment and inconvenience as a tactic to pressurise defendant No. 5 by cutting off these

amenities to them which is illegal and acts of high handedness, complaints made to the police proved of no help and in these circumstances this Court should protect them. Where as learned Counsel for the defendants has contended that the suit and the applications are collusive, lacks bona fide and have been filed to debar the defendants from entering the premises to discharge their duties; also that the reliefs are beyond the scope of the suit and there is no cause of action for this suit.

8. The principles governing the grant of interim injunctions are well established. Injunction is judicial process by which a party is required to do or to refrain from doing any particular act. It is in the nature of preventive relief to a litigant to prevent possible injury. Though the grant of injunction is a discretionary relief, it is normally granted where the Court's interference is necessary to protect the aggrieved party from the species of injuries where irreparable injury or damage may otherwise ensue before the legal right would be established at trial, and keeping in view the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction as compared to the harm that is likely to arise from granting it. In other words, the object of grant of injunction is to protect the plaintiff against injuries resulting from violation of his right for which he could not be adequately compensated in damages. For that purpose primary requirement is that a prima facie case must be shown to exist in favor of the plaintiff. Prima facie case means a case where a substantial question is raised bona fide which needs investigation and a decision on merits. In other words, the court must be satisfied that the claim is not frivolous or vexatious, and that there is a serious question to be tried; where non-interference by the Court would result in irreparable injury to the party seeking relief and against which protection of the Court by temporary injunctions is the only suitable and appropriate remedy. Irreparable injury means that the injury must be a material one, one that cannot be adequately compensated by way of damages. Of course, plaintiff would not be entitled to such injunction if on the material placed before the Court either the suit is not maintainable or he would not succeed at the trial in establishing his right of a permanent injunction' 'While exercising its discretion the Court should always be willing to extend its hand to a citizen who is being wronged or is being deprived of property or its enjoyment without any authority of law. The principles governing

grant of temporary injunction have been reiterated by the Supreme Court in the case of Gujarat Bottling Co. Ltd. & Others Vs . Coca Cola Company & Others, : AIR 1995 SC2372 as under:

'The grant of an interlocutory injunction during the pendency of legal proceedings is a matter requiring the exercise of discretion of the Court. While exercising the discretion the Court applies the following tests- (i) whether the plaintiff has a prima facie case; (ii) whether the balance of convenience is in favor of the plaintiff; and (iii) whether the plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed. The decision whether or not to grant an interlocutory injunction has to be taken at a time when the existence of the legal right asserted by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the plaintiff during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damage recoverable in the action if the uncertainty were resolved in his favor at the trial. The need for such protection has, however, to be weighed against the corresponding need to the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The Court must weigh one need against another and determine where the balance of convenience lies.'

Defendant No. 5 is the owner-landlord of the property and the plaintiff is its tenant in its major portions, i.e. parts of first, second floors, and entire third, fourth and fifth floors. Part of the ground floor and the basement is in the occupation of defendant No. 5. Latter's commercial activities, perhaps carried on in the premises, were closed due to lockout. Defendant No. 1 is the Union of its employees and defendants 2 to 4 are its office bearers being, the President, General Secretary and Secretary. It appears that in protest or otherwise those employees are resorting to demonstrations or other modes of protests in the premises. The plaintiff has alleged that telephones remained non-working during July to September due to closure of basement, the MTNL staff who had gone to

repair the telephone lines was locked inside basement; on 16.9.96 the staff of the plaintiff were not allowed entry in the building and were physically prevented and threatened of physical harm for their ingress and egress. Reports made to the police had no effect. The temporary injunctions passed by the Court and also the undertaking given to the Court on behalf of the defendants 1 to 4 are alleged to have been violated and un-becoming and no legalistic behavior on the part of the defendants is alleged to be continuing unabated.

9. In case of lock out due to disputes arising between the management and its employees, such activities are not uncommon. The plaintiff or its staff is not responsible for these disputes. The defendants or their employees have no business or cause to cause inconvenience, harassment or to extend threats to plaintiff, their employees and cause obstruction to these or others who may visit the plaintiff there. Such conduct on the part of the employees of the defendant No. 5 apparently is a coercive mode of redressal of their grievances to put pressure indirectly. The installations of essential amenities of electricity, transformer, water pump, telephone lines and gadgets for operating them and also the water tank are situated in the basement which is in occupation of defendant No. 5 and is thus exclusively accessible to the defendants alone. Due to lockout perhaps defendant No. 5 had closed their establishment. Being their employees, the basement would have been in exclusive seize and control of defendants No. 1 to 4. Plaintiff would have no reason or occasion to interfere with these installations, nor apparently has any axe to grind in the situation. There is no apparent reason for the plaintiff making such serious allegations about the acts of omission and commission against the defendants.

10. Plaintiff is entitled as a matter of right to the use and enjoyment of their tenancy premises and also un-interrupted supply of water, electricity And other amenities including the use of lifts provided in the building and also free and un-interrupted ingress and egress. If these amenities are disconnected and disrupted and denied, it will cause great hardship to the plaintiff and its staff and their commercial activities will come to stop resulting in irreparable loss, harm and injury which it will not be possible to be compensated. The defendants have no right to interfere in the peaceful use and enjoyment of the premises with these amenities

by the plaintiff and their staff. This is one of those species of cases where the Court would not only be justified but obliged to extend its hand to rescue and protect the harassed plaintiff by granting ad interim injunction with appropriate directions.

11. The question then is in the facts and circumstances what appropriate orders should be passed. The appropriate orders to meet the situation would be:

(1) to direct the defendant No. 5 to forthwith take steps to prevent all persons, except the workers/employees/staff who are entrusted with or responsible for the day to day operation and maintenance of the installations of telephones, water pump, electricity supply, transformer, water tank installed or provided in the basement from entering that portion of the basement where these installations are situated and/or are controlled;

(2) to specifically depute such staff by their names and designations and notify to the plaintiff within 3 days, the staff who may be entrusted with the task of looking after such installations and also operation of the lifts provided in the building;

(3) to keep a proper record separately showing the names of such -staff,times of entry into and exit from such part of basement daily and such entries should be signed by such staff /employee/workers;

(4) not to permit entry of any unauthorised persons or outsiders from entering that portion of basement;

(5) to immediately report to the plaintiff the name(s) of person(s) who intentionally or mischievously, by his acts of commission or omission might in future cut off or cause disconnection or disruption in the supply of all these amenities;

(6) not to make payment of salary/wages to such workers/employees/ staff who may be found responsible or suspected to be responsible for valid reasons, for the mischief of cutting off or stoppage or obstructions in such supplies or facilities, without the leave of this court;

(7) to restore within 7 days and to keep all such amenities in working conditions in future;

(8) respondents No. 1 to 4 and all other employees of defendant No. 5 should be restrained from cutting off or in any way stopping or obstructing in the supplies of the aforesaid amenities and from preventing any person legally entitled to visit, ingress and egress to the Premises of the plaintiff;

(9) not to assemble in the space inside the building meant for common use of the occupants of this building;

(10) not to hold demonstrations or packets inside or outside this building within a distance of 100 meters from the main entrance of the building;

(11) any person who may be found responsible or suspected for valid reasons to have committed violations of any of these conditions/ directions shall not be allowed to enter this building till permission for this purpose is obtained from this Court;

(12) Violation of any of these conditions will be deemed to be contempt of this Court, besides other consequences ensuing from breach of injunction;

(13) These directions shall be notified and displayed at prominent place inside and at the entrance of the building by the defendant No. 5 within 7 days.

It is ordered accordingly.

12. And interim order dated September 27, 1996 (in I.A. 8610/96); order dated 11.8.1997, accepting the undertaking given by defendants in I.A. 6506/97, order dated September 3, 1997 in I.A. 8049/97 are hereby confirmed.

13. IAs No. 8610/96, 6506/97 and 11856/97 are allowed and disposed of in the above terms.

IAs No. 8610/96, 6506/97, 11856/97 allowed.