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Superior Crafts Vs. Centre of Indian Trade Unions and ors.

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Court : Delhi

Decided On : Mar-10-2008

Reported in : [2008(119)FLR614]; (2008)IIILLJ109Del

Judge : S. Ravindra Bhat, J.

Acts : Trade Unions Act, 1926 - Sections 18; Industrial Disputes Act

Appeal No. : CS (OS) No. 627/2006

Appellant : Superior Crafts

Respondent : Centre of Indian Trade Unions and ors.

Advocate for Pet/Ap. : Ravi Kant Chadha and; Manshi Chadha, Advs

Judgement :

S. Ravindra Bhat, J.

1. The plaintiff claims the following reliefs:

a) Pass a decree of permanent injunction in favour of the plaintiff and against the defendants thereby restraining and prohibiting the defendants, their agents, members, associates etc. from holding any demonstrations, dharnas, gherao, slogan shouting and causing hooliganism at least 100 mts. from the premises bearing No. D-12, 13, Udyog Nagar, Peera Garhi, New Delhi, 561/2, Swaran Park,

Mundka, New Delhi and A-I/11 and B-5/11, Safdarjung Enclave, New Delhi;

b) Direct the SHO of the concerned areas for the compliance of the order;

c) Any other relief as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The plaintiff's averments are that it is an export oriented partnership firm having its registered office at D-13, Udyog Nagar, Peera Garhi, Delhi. Defendant No. 1 is a registered trade union. The other defendants are its office bearers and members.

3. The plaintiff adverts to an incident dated March 10, 2006 whereby the defendants manhandled and misbehaved with a lady employee and when she called the police authorities they allegedly assaulted the police official inside the factory premises to which the plaintiff objected. The plaintiff further avers that certain employees of the firm resorted to an illegal strike and forcibly stopped the other employees from attending the office on March 13, 2006 thus effectively blockading the factory premises. The plaintiff advised the defendants to resume their duties through its legal notice dated March 13, 2006 but all in vain. It is alleged that the defendant on March 14, 2006 sent a letter to the plaintiff demanding that the suspended workers who had been lodged in Tihar Jail be marked on leave in its records. The plaintiff avers to further acts of illegal demonstrations, dharnas etc. on March 31, 2006 where acts of hooliganism were resorted by the defendants and also a demonstration held on April 20, 2006. Under these circumstances, the plaintiff seeks a decree against the defendants restraining the defendants, their agents, members, associates etc. from holding any demonstrations, dharnas, gherao, slogan shouting and causing hooliganism.

4. The Court issued summons in the suit and also restrained the defendants through an ex-parte order from holding demonstrations, dharnas, gherao etc. within a distance of 100 meters of the plaintiff's premises on April 18, 2006.

5. The defendants are unrepresented and were proceeded ex-parte on 7th July, 2006 and 21st May, 2007. In the meanwhile, after the issuance of the initial interim

order, the plaintiff moved an application (I.A. 8862/2006) complaining that despite the ex-parte injunction, the defendants were violating the Court's order. On August 23, 2006, the Court directed the SHO, Nangloi to compliance and enforcement of the order of this Court.

6. The plaintiff has, in support of its case relied upon the affidavit of Mr. Subhash Chachra dated October 10, 2007. The said witness PW-1 affirmed the contents of this affidavit in a statement recorded on December 24, 2008. PW-1 has generally deposed in support of the plaint averments. He alleges about an incident concerning Ms. Asha Sharma by one of the defendants Suresh Babu. He has marked a copy of the complaint dated March 10, 2006 as Exhibit PW-1/1. The witness is also marked a copy of the First Information Report to the police regarding the incident on the same day, as Exhibit PW-1/2. PW-1 has further adverted to the same incident and its reporting to the Assistant Labour Commissioner by letter Exhibit PW-1/3. In support of the case that illegal strikes and slogan shouting and other acts of misbehaviour took place, the plaintiff has relied through PW-1 on documents Exhibit PW-1/4, PW-1/5 and PW-1/6.

7. The witness has also deposed that despite this Court's order restraining the defendants from holding demonstrations and dharna, in a blatant show of defiance they are indulging themselves in the contemptuous act of flouting the directions of the Court dated July 29, 2006. Certain photographs have also produced in support of this assertion.

8. Mr. Chadha, learned senior counsel drew the attention of the Court to the material averments of the plaint as well as the deposition of PW-1 and in addition relied upon the judgment of this Court in Vidya Sagar Institution of Mental Health and Neuro Sciences v. Vidya Sagar Hospital Employees Union : (2006)ILLJ781Del , Wings Pharmaceuticals Pvt. Ltd. v. Pargatisheel Mazdoor Sangh Delhi Pradesh : (2001)IILLJ304Del and the Supreme Court's ruling, in S.V. Tank and Vessel Pvt. Ltd. v. Engineering Workers Association : (2005)IILLJ543SC . It was contended that the right to hold strikes and seeks enforcement of terms and conditions of; employment has to be exercised peacefully and without in any manner impeding the right of the management to carry on its business. Counsel contended that the

workers who seek to strike or hold demonstrations should not indulge in acts of hooliganism or commit any acts that would violate the law.

9. In Vidya Sagar Institution of Mental Health and Neuro Sciences v. Vidya Sagar Hospital Employees Union (supra) this Court after considering the various rulings of the High Court as well as of the Supreme Court summarised principle applicable in such suits and civil actions in the following terms at pp. 783 and 784 of : (2006)ILLJ781Del :

14. From these following principles can be culled out:

1. Civil Court has the jurisdiction to entertain suit of this nature.

2. Immunity given to the Unions under Section 18 of the Trade Unions Act, 1926, does not extend to conduct those actions which may amount to offence.

3. Peaceful demonstration is a fundamental right of the unions/employees.

4. It is the legitimate right of the workers to make legitimate demands and when not met, even go on peaceful but legal strike, a right so recognized under labor laws. Trade Union has a right to pursue its Trade Union activities by peaceful methods. However, in exercise of such a right Unions/employees cannot disrupt the functioning of the employer or obstruct willing workers from performing their duties. Further they cannot indulge in the acts of violence, physical assault, intimidation, threats, etc.

5. There is no right to the unions/employees to hold demonstrations at the residence of the employer. This is specifically prohibited by the provisions of the Industrial Disputes Act and amounts to unfair labour practice on the part of the unions (see Schedule V Entry 6). Thus holding of any kind of demonstration even physical demonstration is per se prohibited at the residence of the employer.

6. Thus while it may be the right of the union to hold peaceful demonstration, such demonstrations cannot be allowed to become violent or intimidating in nature. The safety of those visitors who are visiting the employers premises as well as those willing workers, including their smooth ingress and egress is also to be ensured.

This balance is to strike between the two competing and conflicting interests. The Courts have devised the methods to ensure it by fixing the distance from the employers premises within which such demonstration, etc. would not be permissible meaning thereby Unions can resort to these demonstrations only beyond a particular distance. In this way they are able to hold peaceful demonstration and at the same time it is ensured that such peaceful demonstration does not relegate the aforesaid rights of the employer. This is a message which runs through all the aforesaid judgments.

10. From the above discussion, the material averments and the documents which are part of the record, what emerges is that the defendants indulged in certain acts of man-handling the employees of the plaintiff. The plaint has adverted to specific instances on March 10, 2006, March 13, 2006 and March 31, 2006. These are also supported contemporaneous documents written to various authorities such as police, Labour Commissioner etc. The plaintiff also took action and initiated complaints for such alleged offences by some of the defendants. The plaintiff has in addition placed on the record photographs of certain persons trying to obstruct and impede entry into its premises. Despite service of summons, the defendants refrained from contesting the proceedings. They were also proceeded ex-parte. In these circumstances, the plaint averments are deemed to have been admitted by them. On an overall consideration of these materials and averments, the Court is of the opinion that the plaintiff has been able to prove its case and entitlement for the reliefs.

11. In the light of the above, this Court is of the opinion that the defendants cannot be allowed to disrupt the functioning of the plaintiff and ingress and egress of the visitors and other employees to its premises. Of course, their right to carry on peaceful demonstration outside the plaintiff's premises is guaranteed under the law, that however does not imply that such rights can be exercised to impede or inhibit the lawful conduct of the plaintiff's business. In these circumstances, the plaintiffs have been able to establish their entitlement to relief. However, the distance of 100 metres cannot be justified in this case.

In view of the above, a decree for permanent injunction shall issue to the defendants restraining them from holding demonstrations or dharnas or indulging in slogan shouting which would in any manner disrupt or disturb the functioning of the plaintiff's business or blocking ingress or egress of the plaintiff, its employees and office bearers and visitors. It is, however, open to the defendants to stage peaceful demonstration and express protest in such forms as are permissible in law beyond a range of 50 meters from the outer radius of the plaintiff's premises being D-12, 13, Udyog Nagar, Peera Garhi, New Delhi, 561/2, Swaran Park, Mundka, New Delhi and A-I/11 and B-5/11, Safdarjung Enclave, New Delhi.

12. The suit is decreed in the above terms. No costs.

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