

**Kunjappan Vs. Toddy Workers' Welfare Fund Inspector**

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**Court :** Kerala

**Decided On :** Mar-13-1987

**Reported in :** (1987)IILLJ293Ker

**Judge :** Balakrishna Menon, J.

**Appellant :** Kunjappan

**Respondent :** Toddy Workers' Welfare Fund Inspector

**Judgement :**

**Balakrishna Menon, J.**

1. The two plaintiffs sued the defendants namely the Toddy Workers' Welfare Fund Inspector, Ernakulam, the Tahsildar, Alwaye and the Village Officer, Malayattoor for an injunction to restrain them from resorting to revenue recovery proceedings for realization of the contributions due from the plaintiffs towards the Toddy Workers' Welfare Fund as adjudged by the 1st defendant as per his final order dated 30th June 1976 under Section 8 of the Kerala Toddy Workers' Welfare Fund Act, 1969 ('the Act' for short). The trial court dismissed the suit for the reason that there was no prayer to declare the final order of the 1st defendant as invalid and a mere injunction cannot be granted without a prayer either to set aside the final order or to declare it invalid. It is also found that the suit is not maintainable in the absence of notice under Section 80 CPC. On the question of jurisdiction of the civil court to entertain a suit against the defendants the trial court held that the Act

does not exclude the civil court's jurisdiction. On the above findings the suit was dismissed. The lower appellate court has confirmed the decree dismissing the suit on the ground that the suit for an injunction without a prayer to set aside the final order of the statutory authority is not maintainable and also for the reason that Section 17A expressly bars the jurisdiction of the civil court to entertain suits in respect of matters covered by the Act.

2. Section 8 of the Act is extracted below:

Determination of amounts due from employers:-(1) The Chief Welfare Fund Inspector or any other Welfare Fund Inspector authorized by him in this behalf may, by order, determine the amount due from any employer under the provisions of this Act or of the scheme and for this purpose may conduct such inquiry as he may deem necessary.

(2) The Officer conducting the inquiry under Sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a court for trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:

- (a) enforcing the attendance of any person or examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses.

(3) Any inquiry under this Section shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 and for the purpose of Section 196 of the Indian Penal Code.

(4) No order shall be made under Sub-section (1) unless the employer has been given a reasonable opportunity of being heard.

(5) Any person aggrieved by an order under Sub-section (1) may prefer an appeal to the Government or any other authority as may be specified by the Government

within sixty days from the date of the receipt of the order and the decision of the Government or of such authority on such appeal shall be final.

Sub-section (1) constitutes the authority mentioned therein with exclusive jurisdiction to determine the amount due from any employer under the provisions of the Act subject only to a right of appeal by the person aggrieved to the Government, or any specified authority under Sub-section (5) and the decision of the appellate authority on such appeal is final. Sub-sections (2) and (3) make it clear that the enquiry under the Section is a judicial enquiry and the provisions of the C.P.C. are made applicable in respect of matters specified in Sub-section (2). The employer is given a right to be heard with reasonable opportunity to prove his case under Sub-section (4). From the provisions of the Act, it is clear that it is a self-contained Code and the jurisdiction of the civil court in matters dealt with under the Act should therefore be held to be barred. The Supreme Court in the decision reported in *Munshi Ram v. Chheharta Municipality* : [1979]118ITR488(SC) stated at page 1254:

24. It is well-recognized that where a Revenue Statute provides for a person aggrieved by an assessment thereunder, a particular remedy to be sought in a particular forum, in a particular way, it must be sought in that forum and in that manner, and all other forums and modes of seeking it are excluded.

Referring to the provisions of Section 56 of the Andhra Pradesh (Andhra Area) Estate (Abolition and Conversion into Ryotwari) Act of 1948, the Supreme Court in *M. Chayanna v. K. Narayano* : [1979]3SCR201 stated at page 1322:

The Andhra Pradesh Estates Abolition Act is a self-contained code in which provision is also made for the adjudication of various types of disputes arising after an estate is notified by specially constituted Tribunals. On general principles, the special Tribunals constituted by the Act must necessarily be held to have exclusive jurisdiction to decide disputes entrusted by the statute to them for their adjudication.

3. Section 17A was introduced by the Amendment Act of 1978. Section 17A reads:

Bar of jurisdiction of civil courts-No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Government or the Board or the Chief Welfare Fund Inspector or any Welfare Fund Inspector.

4. True, the present suit was instituted prior to the commencement of the Amendment Act. Since, however, I have found that the Act is a self-contained code in the matter of determination of the liability of the employer under Section 8, the jurisdiction of the civil court should be held to be necessarily excluded even without Section 17A. At any rate, after the coming into force of Section 17A the civil court ceases to have jurisdiction to entertain the suit.

5. The decision of the courts below dismissing the suit does not call for interference in second appeal. The second appeal is accordingly dismissed. I need hardly state that the decision in the suit will not preclude the plaintiffs from resorting to the remedies, if any, available under Sub-section 5 of Section 8 of the Act, if so advised.

6. There will, however, be no order as to costs.

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