

State and anr. Vs. Khan Farouk

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Court : Rajasthan

Decided On : Feb-08-1974

Reported in : 1974WLN(UC)232

Judge : P.N. Shinghal, J.

Appeal No. : S.B. Civil Revision No. 439 of 1971

Appellant : State and anr.

Respondent : Khan Farouk

Disposition : Petition dismissed

Judgement :

P.N. Shinghal, J.

1. Heard learned counsel. The short question for consideration is whether the finding of the learned Munsif on Issue No. 12 is correct? That issue reads as follows:

12. Whether the suit is not within the cognizance of the civil court

The learned Munsif has recorded a finding that the plaintiffs suit is triable by a civil court, and the defendants have applied for a revision of that finding on the ground that the learned Munsif has given an incorrect finding on a question of jurisdiction

because the jurisdiction of the civil court was ousted by Sections 10 and 12 of the Industrial Disputes Act.

2. I have gone through the plaint and it shows that the plaintiff has not claimed the benefit of any provision of the Industrial Disputes Act and has based his claim as if that Act had not come into force. In fact the parties have not joined issue on the question whether the plaintiff is entitled to any benefit peculiar to a workman, under any special law. He has thus claimed a right which was all along recognized under the general law, and did not come into existence, and was not created by, the Industrial Disputes Act. In such circumstances. I am unable to find anything in Sections 10 or 12 of the Industrial Disputes Act to raise a bar against the maintainability of the present suit in a civil court. Reference in This connection may be made to Austin Distributors Pvt. Ltd. v. Nil Kumar Das 1970 Lab. I C 323. There is therefore no occasion or justification to revise the finding of the court below on issue No. 12.

3. It may be mentioned that learned Deputy Government Advocate appearing on behalf of the petitioners has placed reliance on Krishnan and Anr. v. East India Distilleries and Sugar Factories Ltd Nellikuppam and Anr. 1964 (1) LLJ 217, Nanoo Asan Madhvan v. State of Kerala and Ors. 1970 (1) LLJ 272 and State of Kerala v. N. Ramaswami Iyer and Sons : [1966]61ITR187(SC) . In the first two of these cases, the claim was in respect of a right under the Industrial Disputes Act. The remaining case was one under the Sales Tax Act & was of a different nature. None of the three cases can therefore be said to be relevant for a finding on issue No. 12, which is subject-matter of controversy in the present petition.

4. As there is no merit in the revision petition, it is dismissed with costs.

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