

In Re: V. Ramanadham

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Court : Chennai

Decided On : Aug-02-1926

Reported in : (1927)52MLJ207

Appellant : In Re: V. Ramanadham

Judgement :

ORDER

Jackson, J.

1. The petitioner seeks to revise the judgment in C.C. No. 33 of 1925 on the file of the Sub-divisional Magistrate, Vizianagram, whereby he has been fined Rs. 25 under Section 41, Indian Factories Act (XII of 1911) for employing children in his factory in contravention of Section 23.
2. The first ground taken is that the dyeing (probably, drying) yard in which the children were employed does not form part of the factory.
3. This place is five or six yards from the wall of the building, and has no connection with machinery, or any work incidental to the manufacturing process (D.W. 1).
4. A factory as defined by Section 2(3) means any premises wherein, or within the precincts of which.... Pausing here for a moment it may be observed that these terms 'premises' or 'precincts' are the most comprehensive that can be conceived.

Premises means the main building and its appurtenances, and lest that should omit any part of the establishment, 'precincts' are added which mean any adjunct. Therefore factory includes everything, machine rooms, sheds, godowns, yards. If within these premises or precincts mechanical power is used in aid of any process for altering, for transport or sale of any article, then these premises or precincts are a factory. The definition does not run, if in any part of such premises mechanical power is used then such part is a factory. The vital question would be, is mechanical power in aid of a manufacturing process used in the premises? If the answer is yes, in the de-corticating room, then the whole premises, including the yard, are a factory, and not merely the decorticating room, as petitioner contends.

5. In support of this contention Mr. Lakshmanan relies upon *Law v. Graham* (1901) 2 KB 327 where it was held that premises occupied by a mechanical bottle washer, and used for bottling beer by hand were not a factory. But the decision of this case turned upon the question whether washing the bottles was a manufacturing process. Lord Alverstone, C.J., conceded that putting beer into bottles might, by a somewhat strained construction of the words, be said to be an adapting of the article for sale. But he held that the washing of bottles by mechanical means cannot be fairly called a process which is used 'in aid of' the bottling of beer. To put the present case on all fours with *Law v. Graham* (1901) 2 KB 327 one must postulate premises wherein the children put ground-nuts into bags, and somewhere on those premises is a machine for washing the bags and no other machinery for any other purpose, then such premises will not be a factory, for the reason that the machinery is not in aid of a manufacturing process, not for the reason that the machinery is in some other portion of the premises. But if in the premises there is machinery admittedly in aid of the process, then the premises would be a factory.

6. In *Paterson v. Hunt* (1909) 101 LT 571. the premises consisted of two rooms separated by a closed door. In one room several girls sorted rags by hand and in the other room a mechanical shaker for cleaning the rags was occasionally used for some of the rags. Lord Alverstone held that the process in question, sorting rags for sale, was not adapting for sale. This ruling would help the petitioner if the

process in his factory were confined to sorting ground-nuts, a portion of which was occasionally cleaned by a mechanical shaker. But the fact that a mechanical decorticator is used on the premises carries the present case beyond the scope of *Paterson v. Hunt* (1909) 101 LT 571. Darling, J., puts the point succinctly,

I cannot come to the conclusion that there was here any manufacturing process whatever....

here', of course, referring to the whole premises, and not to that portion of the premises occupied solely by manual workers. In the present case it cannot possibly be said that there is no manufacturing process whatever on the premises.

7. Part of the premises used solely for some purpose other than the manufacturing process carried on in the factory may' under Section 149 of the English Factory and Workshops Act, 1 Ed. VII. 8. 22 constitute a separate factory, or be excluded from the operation of the Act; Halsbury, Vol. 14, pages 443-444; but these circumstances do not assist the interpretation of the Indian Act. On the first ground I hold that the drying yard does form part of the factory.

8. It is next urged that there was no employment of children in the factory as contemplated by the Act. Under Section 46 if a child is found in any part in which children are employed and in which work incidental to any manufacturing process is being carried on he shall be deemed to be employed in the factory until the contrary is proved. Under Section 2(2) a person who works in a factory in any kind of work incidental to the manufacturing process or connected with the article subject of the manufacturing process, shall be deemed to be employed therein.

9. The question then arises whether sorting ground-nuts can be said to be incidental to the process or connected with the article subject of the process. The article subject of the decorticating process being ground-nut, it must be held that sorting that article is work connected with the article subject of the manufacturing process. No doubt mere sorting was held to be no manufacturing process in the case of *Paterson v. Hunt* (1909) 101 LT 571. but then the rags were not subject of any manufacturing process on the premises. They were simply collected, and the only mechanical process, which brought the case as their

Lordships observed near the line, was the intermittent use of the shaker for some of the rags. The regular use of the decorticator for all the ground-nuts leaves no room for doubt that the article has been subject of manufacturing process.

10. It must be held therefore that the children were employed within the mischief of the Act.

11. Once it is found that the children were employed in the factory it is immaterial who actually paid them their wages; the occupier or manager is liable under Section 41.

12. No other ground was raised, and there is no reason to revise the judgment of the Lower Court.

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