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Court : Chennai

Decided On : Dec-17-1925

Reported in : AIR1926Mad670; (1926)50MLJ659

Appellant : The Public Prosecutor

Respondent : Ayitha Alias Thaniya and anr.

Judgement :

Devadoss, J.

1. Cr. Appeal No. 339 of 1925 - This is an appeal by the Public Prosecutor against the decision of the Sub-divisional Magistrate of Tellicherry who quashed the conviction of the accused by the Second Class Magistrate of Vayitri under Section 30 of the Madras Planters' Labour Act (1 of 1903) on the ground that the contract executed by the appellant did not contain his descriptive marks as required by law. The contention of the Public Prosecutor is that the omission to mention the descriptive mark of the accused was not a wilful omission but an oversight and that omission should not be held to invalidate the contract. The question is whether the omission to enter any particulars required by the rules vitiates the contract or makes it unenforci-ble under the Act. The argument of the Public Prosecutor is that the omission to give the descriptive marks of a Labourer is such a negligible thing that it cannot be held to invalidate a contract. He argues 'could it be said that a person, who has no descriptive marks or is unable to give his

father's name as required by the rules cannot enter into a contract of this kind.' The Governor in Council has framed rules under Sections 4, 13 and 42 of the Planters' Labour Act of 1903. Rule 2(4) is in these terms:

Labourer's native place (village, taluq and district), caste, age and descriptive marks, and Section 4. says-

Every contract between a planter and a maistry, and every labour contract shall be in writing and shall be in such form and shall contain such particulars as the local Government may by rules made under this Act direct.

2. The question is whether the non-compliance with any of these rules as to particulars vitiates the contract? In the contract form there is a column for descriptive marks. That column has not been filled in. It is unnecessary to enquire, for the purpose of this case, whether the accused has any descriptive marks or not. What we are concerned with is to see whether the rules have been complied with. The argument that it is not necessary to fill up one of the columns required to be filled up under the rules either because the column cannot be filled up or it is not necessary to fill it up because of its minor importance does not commend itself to me. The Madras Planters' Labour Act of 1903 is an exceptional piece of legislation. It converts the civil liability into the criminal liability of a labourer and subjects him to imprisonment for one month with or without fine. When the legislature enacts that in order to give validity to a contract certain formalities should be complied with, it is not for the Court to say whether any of the formalities is necessary or not. It may be as the Public Prosecutor argues that if a person has no descriptive marks, or if he is not able to give his father's name, the contract cannot be executed. But where, owing to wilful omission or carelessness the columns are not filled up, it cannot be said that one of the particulars required by the rules is not of such importance as to make the contract invalid. The rules require that the labourer's native place, village, taluq and district, caste, age and descriptive marks should be given. If a labour contract does not contain the name, caste, or age of the labourer, can we hold that the contract is a valid one? Whatever may be the reason for the legislature requiring such particulars, it is not for the Court to enquire into the reasonableness of it. When the legislature, for

reasons best known to itself, requires certain formalities to be gone through, or certain formalities to be observed, in order to make a contract valid, or when it requires certain descriptions or particulars to be given in a contract to make it valid, the Court cannot consider any one of the terms or requisites as of no importance. I think the descriptive marks of a labourer are as important as his name and caste and therefore the omission to give descriptive marks makes the contract unenforceable. It is not suggested that these rules have not got the force of law. Such a contention would be on the face of it untenable, for the rules are framed under Sections 4, 13 and 42 of the Act. In the Assam Labour Act (VI of 1901), the form to be filled in is made part of the Act itself, and the Madras Act is evidently based upon the Assam Labour Act and it cannot be said that the Madras Legislature has required certain particulars to be given in the form without due consideration. When a similar enactment in another province requires the descriptive marks to be given in the contract, we may take it that it is for good reasons that the Legislature required them.

3. The Legislature does require certain formalities for the validity of certain contracts. For instance in the case of statutory bodies no contract which is not under seal is valid. Even if a statutory body has acted on such a contract, yet, when that contract is sought to be enforced in a Court of Law, it cannot be enforced if this is not under seal. The law requires certain documents to be attested and such documents may be proved only by proving attestation. The Courts are bound to give effect to the law as they find it and not to consider whether certain formality is essential or non-essential. It is urged that a good many contracts might be declared invalid if such a literal construction of the rules is to prevail; but it is not the function of the Court to consider what effect the decision will have. The duty of a Court is to interpret and apply a statute as it finds, and no provision of law should be considered unnecessary or immaterial. The labourer is as much entitled to protection as the planter. Labourers are mostly ignorant people and the protection given under the Act should not be lightly taken away. The legislature evidently in order to prevent unscrupulous maistries and others inducing labourers to enter into contracts which might afterwards be found irksome to them, requires that certain formalities should be gone through and certain particulars should be entered in the contract to safeguard them and to prevent

them from escaping the consequence of the non-fulfilment of the contract by pleading that they are not the persons who signed the contract. The Act takes the precaution to see that everything is done above board and to the knowledge of the labourer. For instance, it lays upon the Magistrates or other persons before whom such labour contracts are signed, a duty to see that the terms are fully explained to and are understood by the parties. In the face of the considered policy of the Act and the clear terms of Sections 4 and 7 it cannot be said that the Sub-divisional Magistrate was wrong in setting aside the conviction of the accused on the ground that the descriptive marks were not given in the contract.

4. I therefore decline to interfere with the order of the Magistrate and dismiss this appeal.

5. Cr. Appeal No. 340 of 1925__Same order in Criminal Appeal No. 340 of 1925.

Waller, J.

6. Cr. Appeals Nos. 339 and 340 of 1925 - I agree that the appeal must be dismissed. The rule framed under Section 4 of the Act requires that, among other particulars, the descriptive marks of the labourer shall be entered in the contract. In these cases, no such marks have been entered. In fact, no attempt has been made to comply with the rule. It is not asserted that respondents have no descriptive marks and I infer from Mr. Adam's admission that a large number of similar contracts may be affected by our decision, that the rule has been habitually ignored. There is, of course, in neither case any dispute as to the identity of the labourer, but that is not to the point. In order that the contract may be enforceable under the Act the law requires that certain things shall be entered in it. If they are omitted the contract cannot be enforced.

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