(1991) 03 MP CK 0036

In the Madhya Pradesh High Court

Case No : C.R. No. 16 of 1991

Badri Prasad Baldev Prasad — APPELLANT

Vs

Aerofil Paper Ltd. Industrial Area, Banmore — RESPONDENT

Date of Decision : 15-03-1991

Acts Referred:

Madhya Pradesh Sahayata Upkram (Vishesh Upabandh) Adhiniyam, 1978 — Section 3, 5

Citation : AIR 1992 MP 137 : (1992) 37 MPLJ 668 : (1992) MPLJ 668

Hon'ble Judges : R.C. Lahoti, J

Bench : Single Bench

Advocate : S.S. Bansal, for the Appellant; H.D. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

R.C. Lahoti, J.

The plaintiff/petitioner is aggrieved by an order of the trial Court staying the proceedings in a suit filed by the petitioner against the non-petitioner on account of the latter having been declared a relief undertaking within the meaning of Sections 2(3) and 3 of the M. P. Sahayata Upkram (Vishesh Upabandh) Adniniyam, 1978 (hereinafter referred to as the Act).

It is not disputed that the non-petitioner industry has been declared a relief-undertaking u/Section 3 of the Act. Notification dated 8-6-1990 to that effect has been filed before the trial Court. The plaintiff/petitioner who is a mercantile firm has filed a suit for recovery of the price of the goods supplied by it to the non-petitioner.

Section 6 of the Act reads as under:

"Suspension of suits or other legal proceedings against relief undertaking.-- As from the date specified in the notification under Sub-section (1) of Section 3, no suit or other legal proceedings shall be instituted or commenced or, if pending, shall be proceeded with against the industrial undertaking during the period in which it remains a relief undertaking any law, usage, custom, contract, instrument, decree, order, award, settlement or other provisions whatsoever notwithstanding."

The learned counsel for the petitioner has laid emphasis on the preamble to the Act which reads as under:--

"An Act to enable the State Government to make special provisions for a limited period in respect of industrial relations, financial obligations and other like matters in relation to industrial undertakings the running of which is considered essential as a measure of preventing, or of providing relief against unemployment."

He relies on a Full Bench decision of this Court in The State of Madhya Pradesh Vs. Mahant Kamal Puri, wherein it has been held (at page 184):--

"The preamble of a statute is a good means of finding out its meaning and, as it were, a key to the understanding of it. Indeed, the preamble may be regarded, like the title, as part of the statute for the purpose of explaining, restraining or even extending enacting words".

He submits that the phrase "financial obligations" used in the preamble should act as key to the interpretation of the Act, also laying down its scope of applicability. In his submission, ''financial obligation'' means, an obligation incurred by an undertaking on account of its activities having been financed by a financial institution such as a bank, Government, Finance Corporation etc. In his submission, the liability incurred on account of the goods having been supplied by a private party such as the plaintiff would not amount to ''financial obligation''and hence provisions of the Act do not apply to the present suit. It is difficult to agree with this submission.

The phrase "financial obligation" has not been defined in the Act. In Black''s Law Dictionary, the word "financial" has been shown as meaning fiscal, dealing in money". The term "obligation" has been defined to mean -

"That which a person is bound to do or forbear; any duty imposed by law, promise, contract, relations of society, curtesy, kindness etc."

Chambers Twentieth Century Dictionary defined "finance" to mean as "money affairs" and "financial" as "pertaining to finance". The term "obligation" has been defined to mean -

"A moral or legal bond, tie or binding power; that to which one is bound; a debt of gratitude."

Thus, the phrase has a wide connotation. Moreover, Phraseology as used in the Preamble speaks of "financial obligations and other like matters". It embraces matters akin to financial obligations, even if they be not strictly so. An undertaking may incur financial obligations not necessarily by merely borrowing the money from financial or financing institutions. It also incurs financial obligations by purchasing goods on credit and undertaking to pay the price in cash. To begin with the dealing may not be financial. But once the goods are purchased on credit, the obligation o''f the buyer to pay for the price in cash does become a financial obligation.

In Tribhuban Parkash Nayyar Vs. The Union of India (UOI), relied on by the learned counsel for the petitioner, their Lordships have held (at page 543 (of AIR)):--

"A Preamble is a key to open the mind of the Legislature but it cannot he .used to Control or qualify precise and unambiguous language of the enactment. It is only when there is a doubt as to the meaning of a provision that recourse may be had to the preamble to ascertain the reasons for the enactment and hence the intention of the Parliament."

As the Preamble indicates, the Act has been enacted with the object of vesting the State Government with a power to make special provisions, though for a limited period, touching the relief undertakings so as to regulate their industrial relations financial obligations and other like matter, because the industrial undertaking, otherwise unfit to run, must run so as to fight against the social epidemic of unemployment. As Section 3 indicates, public interest is the paramount consideration for declaration of relief undertaking. Private interest must yield to the public interest in case of need. Each word, phrase or sentence is to be construed in the light of general purpose of the Act itself (Poppatlal Shah v. Stateof Madras AIR 1953 SC 27 . That is the rule of purposive Interprctation. It is a recognised rule of interpretation of Statutes that expressions therein should ? ordinarily be understood in a sense in which they best harmonise with the object of the statute, and which effectuate the object of the Legislature New India Sugar Mills Ltd. Vs. Commissioner of Sales Tax, Bihar, The Act has a beneficial purpose behind : to enable the relief undertakings to have a breathing time on declaration made by State and thereby postponing recoveries against them so that they may be in a position to regain the lost strength and recover from fumbling. They must be in a position to concentrate exclusively on themselves, free from financial worries, so as to continue running or re-start. That is why, not only the recoveries are stayed but even the suit or other legal proceedings are not permitted to be instituted or to commence or proceed ahead, if already instituted. The notification u/Section 3 of the Act by virtue of Section 5 is given an overriding effect over any law, usage, custom, contract, instrument, decree, order, award, settlement or other provisions whatsoever. It could not have been the intendment of the Legislature to place the Government and semi-Government institutions in a position less advantageous than that of private firms and institutions, which would necessarily be the position if only the argument of the learned counsel for the petitioner and the interpretation placed by him were to be accepted.

In the considered opinion of this Court, the phrase-"financial obligations and other like matters" as used in the Preamble of the Act has to be given a wider meaning. It is not confined in its meaning to financial transactions merely. It includes obligations involving financial implications. Recovery sought or initiated on account of goods supplied to industrial undertaking would be within the ken of the Act and so long as the declaration u/Section 3 of the Act remains operative suit for recovery of the price of the goods supplied to the undertaking shall remain stayed.

For the foregoing reasons, no fault can be found with the impugned order. The revision is dismissed. No order as to the costs.