
(2008) 01 RAJ CK 0039

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1807 of 2007

Employees State Insurance Corporation

APPELLANT

Vs

Sardar Sher Ameer Singh

RESPONDENT

Date of Decision : 24-01-2008

Acts Referred:

Employees State Insurance Act, 1948 — Section 75, 82

Citation : (2008) 2 WLN 95

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Judgement

Govind Mathur, J.—This appeal is preferred to challenge the order dt. 22.07.2006 passed by learned District Judge, Sriganganagar accepting an appeal preferred by respondent Sardar Sher Ameer Singh to challenge the order dt. 03.06.2006 rejecting an application for interim relief preferred alongwith an application u/s 75 of the Employees State Insurance Act, 1948 (hereinafter referred to as "the Act of 1948").

2. The contention of counsel for the appellant is that the learned District Judge was having no jurisdiction to entertain an appeal against an order may that be rejecting an application seeking temporary injunction in view of the provisions of Sub-section (3) of Section 75 and Section 82 of the Act of 1948.

3. Per contra, stand of counsel for the respondent employer is that as a matter of fact the Employees State Insurance Court rejected an application under Order XXXIX Rules 1 and 2 Code of Civil Procedure, therefore, the District Judge rightly entertained the appeal.

4. I have considered the arguments advanced and also examined the order impugned.

5. By the order dt. 03.06.2006 learned Employees State Insurance Court, Sriganganagar rejected an application seeking interim direction that was filed alongwith an application u/s 75 of the Act of 1948. Such an application is nothing

but an application u/s 75 of the Act of 1948. As per provisions of Sub-section (3) of Section 75 of the Act of 1948 no civil Court shall have jurisdiction to decide or deal with any question or dispute that is subject matter u/s 75 or to adjudicate on any liability which by or under the Act of 1948 is to be decided by the Employees State Insurance Court. As per Section 82 of the Act of 1948 no appeal shall lie from an order of Employees State Insurance Court except to the High Court from an order of Employees State Insurance Court if it involves a substantial question of law. In view of the provisions above, I am having no doubt that the learned District Judge while entertaining an appeal against the order dt. 03.06.2006 acted beyond the jurisdiction vested with it.

6. As such, this misc. appeal deserves acceptance, the same, therefore, is allowed. The judgment dt. 22.07.2006 passed by learned District Judge, Sriganganagar in Misc. Appeal No.29/2006 is quashed.