
(1971) 09 DEL CK 0034

In the Delhi High Court

Case No : First Appeal No. 84D of 1964

Employees State Insurance Corporation

APPELLANT

Vs

Shanker Lal

RESPONDENT

Date of Decision : 17-09-1971

Acts Referred:

Citation : (1972) RLR 17

Hon'ble Judges : V.D. Misra, J

Bench : Single Bench

Advocate : C.M. Oberoi and R. Dayal, for the Appellant;

Judgement

V.D. Misra

(1) This judgment will dispose of F.A.O. No. 84-D of 1964 and F.A.O. 85-D of 1964 since common questions of law have arisen from the same facts. The Assistant Regional Director of Employees State Insurance Corporation made an application against the respondents for recovery of Rs. 241.00 as employees contribution payable by the respondents for the period October 1, 1949 to February 1, 1960. Another application was made against the respondent claiming a sum of Rs. 1,187.00 on account of employees' contribution for the period May 26, 1960 to June 30, 1961.

(2) The respondents contested both the applications and contended that they were not a factory as defined in Section 2(12) of the Employees' State Insurance Act, 1948 (hereinafter called the Act). The Employees' State Insurance Court came to the conclusion that the respondents were not a factory and dismissed both the applications.

(3) The undisputed facts are that the respondents have in their possession two premises ; one is at No. 1333, Original Road, Karol Bagh, Delhi, and the other is situated at No. 747, Joshi Road, Karol Bagh, Delhi. Both are separated by a considerable distance which is about 60 to 70 yards, according to the Inspector of the appellant. The first premises which is described as a factory uses power

for manufacturing process of casing. The second is a godown where the finished material is packed up and delivered to the customers. Admittedly, none of these two places individually employ workers exceeding 20. However, if the workers at both the places are added up they are more than 20.

(4) Section 2(12) of the Act defines "factory" meaning any premises including the precincts thereof whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Mines Act, 1952, or a railway running shed....." The godown and the factory are not located in the same premises. But, can the godown be said to be in the precincts of the premises where the building called by the parties as factory is situated ? Concise Oxford Dictionary gives the meaning of the word "precinct" as "space enclosed by the walls or other boundaries of a place or building..... the environs of ; boundary.....". This shows that before any building can be said to be in the precincts of another premises, it has to be in the boundary of the latter. As long as the two are in the same boundary, the distance between them will not be material. However, if they do not happen to be in the same boundary, these have to be treated as separated.

(5) My attention has been drawn to an unreported decision of the Punjab High Court in F.A.O. No. 29 of 1958 S.K. Talwar v. Employees' State Insurance Corporation, decided on 7th September, 1959, where Shamsher Bahadur J., held that the two buildings separated by a road constituted "factory" in the circumstances of that case. This case was decided on its own facts and does not enlarge the definition of the word "factory" as given in the Act. Thus, the two premises in this case cannot be clubbed together and cannot be said to fall under the definition of "factory". The result is the appeals fail and are dismissed. The parties are, however, left to bear their own costs.