
(2001) 07 GUJ CK 0066
In the Gujarat High Court
Case No : S.C.A. No. 7361 of 2000

Kantilal Sinthabhai Marathe	Vs	APPELLANT
Rajkumar Synthetics Mills Ltd.		RESPONDENT

Date of Decision : 02-07-2001

Acts Referred:

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22

Citation : (2002) 93 FLR 92 : (2002) 2 LLJ 472

Hon'ble Judges : R.R. Tripathi, J

Bench : Single Bench

Advocate : A.K. Clerk, for the Appellant;

Final Decision : Allowed

Judgement

Ravi R. Tripathi, J.—The present petition is filed challenging (i) order dated September 25, 1995 in T. Application Nos. 116 of 1993, 117/1993. 118/1993 to 144/1993; (ii) order dated December 31, 1998 in Revision Application No. 210 of 1998 (the correct number is Revision Application No. (1C) No. 210/1996) passed by the Industrial Court, Surat; (iii) order dated October 15, 1999 passed below Exhibit 15 in T. Application Nos. 117/1993 to 144/1993 by the Labour Court, Surat.

The facts giving rise to the present petition are that the petitioners had filed applications for reinstatement and back-wages before the Labour Court, Surat, which was numbered as T. Application Nos. 116/1993, 117/1993, 118/1993 to 144/19.93. It is the case of the petitioner that the petitioner was a workman in the respondent company and the services of the petitioner were terminated on April 12, 1993 without any justification. The Labour Court, Surat, passed an order dated September 25, 1995 staying the proceedings of T. Application, a copy of which is produced at Annexure "A" to the petition. Mr. A.K. Clerk, learned advocate, for the petitioner invited attention of the Court to the said order, Annexure "A" to the petition, the operative part of which reads as under:

"xx xx xx

All the aforesaid cases are stayed under the provisions of Section 22(1) of the Sick Industrial Companies (Special Provisions) Act."

2. The learned advocate, submitted that "Rule" was issued by this Court on July 10, 2000. The same was sought to be served by direct service. An affidavit of service dated August 8, 2000, is filed wherein it is stated that:

"I had personally gone to respondent No. 1 at the address given in the cause title of the petition, or supplied to petitioner who was present at the said address. After tendering a copy thereof to them, they refused to accept the notice of the High Court."

The matter was thereafter adjourned from time to time. Today, the matter is called out, nobody appears for the respondent.

3. Mr. Clerk, learned advocate, submitted that this Court in the matter between Gujarat Dairy Development Corporation Ltd, v. Amrutbhai Mohanbhai Desai and Ors., 1998 (1) GLH 365 has held that raising an industrial dispute for grant of permanent status and consequential benefits are not the proceedings in the nature of "execution" like against the properties of the industrial company nor it is a suit for recovery of money or enforcement of any security against the industrial company and, therefore, the same cannot be effected by the provision of Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985. Mr. Clerk submitted that the Labour Court has erred in passing the impugned order staying the proceedings of T. Applications Nos. 116 of 1993, 117/1993 and 118/1993 to 144/1993 as it is not in consonance with the law laid down by this Court in the aforesaid judgment.

4. He further submitted that the said order of the Labour Court dated September 25, 1995 was challenged by filing Revision Application (1C) No. 11 of 1996 before the Industrial Court. The same also came to be rejected by an order dated December 31, 1998. The petitioner then filed Exhibit 15 in T. Application Nos. 117/1993 to 144/1993 for reopening the proceedings in the Labour Court, Surat, which were also rejected by an order dated October 15, 1999. He submitted that all these orders are required to be quashed and the petition is required to be allowed following the aforesaid judgment.

5. Taking into consideration the submissions hereinabove, the Special Civil Application is allowed. The orders impugned in this petition produced at Annexures A, B and C are hereby quashed and set aside. The Labour Court, Surat is directed to proceed with the T. Applications. Rule is made absolute with no order as to costs.