

(1963) 07 MAD CK 0014

In the Madras High Court

Case No : Second Appeal No. 912 of 1961

Krishnan and Another

APPELLANT

Vs

The East India Distilleries and Sugar Factories Ltd. and
Another

RESPONDENT

Date of Decision : 17-07-1963

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Industrial Disputes Act, 1947 — Section 10(1), 2

Citation : AIR 1964 Mad 81

Hon'ble Judges : Veeraswami, J

Bench : Single Bench

Advocate : Ayyar and Dolia, for the Appellant; King and Partridge, for the Respondent

Final Decision : Dismissed

Judgement

Veeraswami, J.—A case of this sort is rather uncommon. The plaintiffs who are the appellants, they having lost in both the Courts below on

a point of jurisdiction, sued for a declaration that a certain agreement entered into between the second defendant, a labour Union, and the first

defendant, the management, was not binding on them and for an injunction restraining the first defendant from implementing the terms of the

agreement. It is common ground that there was an earlier agreement in about December 1958 between the two defendants the effect of which was

that 200 casual workmen were recognised by the first defendant as probationary seasonal workmen entitled to certain privileges and emoluments.

It appears that the second defendant entered into another agreement with the first defendant on 28th January 1960, which the plaintiffs attacked as

prejudicial to them and not binding on them. They said in effect that the second

agreement curtailed their rights by reason of the introduction of about 200 more casual workmen as probationary seasonal workmen, that the general body meeting of the union at which the resolution was supposed to have been passed authorising the union to enter into an agreement was not properly convened as an emergency meeting and that it was held excluding all the probationary seasonal workmen, and that they were, therefore, not consenting parties to the resolution and the agreement entered into by the first defendant with the second defendant, was not binding on them. It was on this basis they asked for the reliefs, I have mentioned at the outset. Both the Courts below on the preliminary points as to the jurisdiction of the civil Court to entertain such an action and decide the same, were agreed that the dispute raised in the plaint being in the nature of an industrial dispute, the jurisdiction of the civil Court to decide that was impliedly barred. They were also agreed that in any case Section 18(1) of the Indian Trade unions Act would so far as the second defendant was concerned, be a bar to the suit.

2. On behalf of the appellants, it has been argued that the prayers of declaration and injunction could only be asked for in a civil Court and that, therefore, the view taken by the Courts below cannot be supported. It may be granted that normally speaking those reliefs are peculiar to civil litigations tried in ordinary Courts of law but in my opinion, that is not the correct approach to the question of jurisdiction of the civil Court to entertain and try suits of this character, whether the agreement was invalid and not binding on the plaintiffs on the ground that the union was not duly authorised to enter into agreement and whether, if the agreement is invalid the first defendant should not give effect to it, are all matters of dispute between the workmen who are the plaintiffs, on the one hand and the management and the union on the other.

If the dispute was only as between the plaintiffs and the second defendant union, it may be open to argument whether it will be an industrial dispute as defined by Section 2(k) of the Industrial Disputes Act, 1947. Even there, in one sense it may be regarded as a dispute between the workmen and the union as a body of workmen, the corporate character of the union notwithstanding. But in the action brought by the plaintiffs there is a further complication. They have impleaded the first defendant also as a party

defendant. The result in the dispute clearly becomes one between workmen and the management and that certainly is an industrial dispute within the statutory definition. The Labour Court to which such a dispute may be referred under the provisions of the Industrial Disputes Act will have power to decide whether the agreement is a valid and binding one and whether the first defendant should not implement it. It may be that the reliefs granted by the Labour Court as embodied in its award, may not be in the precise form of declaration and injunction but such reliefs could, I think, be granted by the Labour Court in other forms in effect.

3. The question then is whether if the dispute is an industrial dispute and the same could be referred for adjudication u/s 10(1) of the Industrial Dispute Act, it takes away the jurisdiction of the civil Court to try the action involving such a dispute. It is well known that the jurisdiction of the civil Court to try a suit of a civil, nature is assumed unless statutorily it is taken away either expressly or by necessary intendment. It seems to me that if the scheme and the provisions of the Industrial Disputes Act are regarded, it would be plain that they impliedly exclude the jurisdiction of the civil court to try industrial disputes which can well be referred to for adjudication u/s 10(1) of the Act to Labour Court.

The very object of the Act is to provide for investigation and settlement of industrial disputes. For that purpose the Act defines "industrial dispute" and draws a scheme of conciliation and settlement, failing settlement reference to and adjudication by arbitration and other means by setting up a series of tribunals, like Conciliation boards, Courts of enquiry, labour Courts and industrial tribunals. Elaborate provisions have been made in the Act regarding the powers of the Government to make reference, procedure to be followed by the tribunals. We Binding character of awards and the implementation thereof. The Industrial Disputes Act is therefore a self-contained code providing for settlement of industrial disputes by special forums. There is, no doubt, therefore, that the whole object and scheme of the Act, is to take away industrial disputes from the purview of civil courts with a view to secure expeditious and effectual adjudication of such disputes and to serve and promote industrial peace.

4. In my view, therefore, the Courts below took the right view when they held that the civil Court has no jurisdiction to try the suit. On that

conclusion the other question whether the suit is barred u/s 18(1) on the Indian Trade Unions Act does not arise for consideration.

5. The second appeal fails and is dismissed but no costs. Leave granted.