
(1959) 01 KL CK 0008
In the High Court Of Kerala
Case No : C.R.P. No. 593 of 1958

Kuriakose

APPELLANT

Vs

Thomas

RESPONDENT

Date of Decision : 06-01-1959

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Criminal Procedure Code, 1898 (CrPC) — Section 17, 18, 195

Citation : (1959) KLJ 341

Hon'ble Judges : T.K. Joseph, J

Bench : Single Bench

Advocate : C.K. Sivasankara Panicker, for the Appellant; S. Narayanan Potti, N.K. Varkey and P. Karunakaran Nair, for the Respondent

Final Decision : Dismissed

Judgement

T.K. Joseph, J.—This Civil Revision Petition is directed against an order of the Authority constituted under the payment of Wages Act (IV of 1936). The Respondent who was an employee of the petitioner made an application to the Authority u/s 15 of the Act, for the issue of a direction to the petitioner to pay him wages for 4 months. The petitioner had in the meanwhile instituted a suit for recovery of a sum of Rs. 6,000 and odd from the Respondent and he applied to the Authority for stay of proceedings u/s 15, pending decision of the Civil Suit, on the ground that he had credited the wages claimed in the petition towards partial satisfaction of the sum sued for and that the decision of the suit would govern the Respondent's claim. The application for stay of proceedings was dismissed and the employer has therefore preferred this Civil Revision Petition. The main question which arises is whether this order is revisable by this Court or in other words whether the Authority is a "Court subordinate to the High court", as contemplated in section 115 of the Code of Civil Procedure. The two points stressed by the learned counsel for the petitioner in support of his argument that the "authority" is a court subordinate to the High Court are that section 18 confers on the Authority all the powers of a civil court under the CPC for the

purpose of taking evidence, enforcing the attendance of witnesses and compelling the production of documents and that the section further provides that such Authority shall be deemed to be a civil court for the purpose of section 195 and Chapter XXXV of the Code of Criminal Procedure and secondly, that section 17 provides for appeal to the Court of Small Causes in the Presidency Towns and the District Court elsewhere.

2. The mere fact that the Tribunal is invested with the powers of a civil court does not mean that the Tribunal thereby becomes a civil court. In the *Peoples Own Provident and People's Own Provident and Gen. Insurance Co. Vs. Guracharya*, in which the question was whether the debt adjustment Board under the Bombay Agricultural Debtor's Relief Act was a civil court, Chagla, J. held "The very fact that the Legislature had to vest the Board with powers which a civil court possesses goes to show that the Board is not a court. The fact that similar powers which a civil court possesses are given to this Board by the Statute does not constitute it a court". In this connection it has to be noted that all the powers of a civil court are not conferred on the Authority under the Payment of Wages Act but only those which relate to the taking of evidence. If the Authority under the Act is a civil court there is no need to confer certain powers of a civil court by an express provision in the Act. Again the latter part of section 18 which provides that the authority shall be deemed to be a civil court for certain purposes makes it clear that it is not a civil court. Another point of distinction is that unlike the civil court, the Authority does not pass a decree but only gives a direction which it has no jurisdiction to execute except in cases where the Authority happens to be a Magistrate. The amounts directed to be paid are made recoverable as if they are fines. These points of distinction are emphasised in *Sawatram Ramprasad Mills Co. Ltd. v Vishnu Pandurang Hingnekar* (A.I.R. 1950 Nag. 14). It may be mentioned that there were conflicting decisions of single Judges of the Nagpur High Court on the point and that the conflict was set at rest by the decision cited above.

3. Coming to the second point viz., whether the provision in section 17 for an appeal to the District Court from certain orders of the Authority makes the Authority a civil court so as to attract the revisional jurisdiction of this Court, it must be stated that a mere right of appeal to the District Court would not make the Authority a civil court. It may be that the High Court has revisional jurisdiction in respect of such appellate decisions of the District Courts, but this does not mean that the original Authority itself is a civil court. The arguments which are raised in this case were raised in other cases also elsewhere. It was held in *The Manager, the Spring Mills Ltd. v G.D. Ambekar and another* (A.I.R. 1949 Bom. 188), *Triloki Nath v Lord Krishna Sugar Mills Ltd.* (I.L.R. 1945 All. 248) and *Sawtram Ram Prasad Mills Ltd. v Vishnu Pandurang Hingnekar* (A.I.R. 1950 Nag. 14) that the Authority under the payment of Wages Act is not a civil court and that no revision lies from orders of the Authority. It was observed by Lord Sankey L. C. in *Shell Co. of Australia v Federal Commissioners of Taxation* (1931) A.C. 275:

The authorities are clear to show that there are tribunals with many of the trappings of a court which, nevertheless, are not Courts in the strict sense of exercising judicial power..... In that connection it may be useful to enumerate some negative propositions on the subject; (1) A tribunal is necessarily a court in this strict sense because it gives a final decision (2) Nor because it hears witnesses on oath. (3) Nor because two or more contending parties appear before it between whom it has to decide. (4) Nor because it gives decisions which affect the rights of subjects. (5) Nor because there is an appeal to a Court. (6) Nor because it is a body to which a matter is referred by another body; (see *Rex v Electricity Commissioners*. (1924) 1 K.B. 171.

With great respect I agree with the view held in the decisions of Allahabad, Bombay and Nagpur Courts referred to above which are in consonance with the weighty observation of Lord Sankey L.C.

It follows that the revision is incompetent. It is accordingly dismissed with costs.