
(2001) 06 GUJ CK 0066
In the Gujarat High Court
Case No : S.C.A. No. 7341 of 2002

Lalan Kumar Dubey

APPELLANT

Vs

Rajkumar Synthetics Mills Ltd.

RESPONDENT

Date of Decision : 14-06-2001

Acts Referred:

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22, 22(1)

Citation : (2002) 2 LLJ 644

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) the order dated September 25, 1995 in T. Application No. 292 of 1993 and other applications (T. Applications No. 557/1991, 558/1991, 559/1991, 353/1992, 261/1992, 198/1993, 199/1993, 775/1993 and 534/1993: (ii) order dated December 31, 1998 passed in Revision Application No. 12 of 1996 passed by the Industrial Court, Surat; and (iii) order dated September 13, 1999 passed in T. Application No. 261/1992, 353/1992, 198/1993 and 199/1993 by the Labour Court, Surat.

2. The facts giving rise to the present petition are that the petitioner herein had filed application for reinstatement and back wages before the Labour Court, Surat being T. Application No. 292 of 1993. 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:

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

3. Mr. Clerk, 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 have personally gone to respondent No. 1 at the address given in the cause title of the petition. 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 and on December 20, 2000 this Court passed order to the effect that,

"Since the respondent has refused the notice it is presumed that they are served. Office is directed to place this matter for final hearing in the week starting from December 26, 2000".

Today, when the matter is called out, nobody appears for the respondent.

4. Mr. Clerk, learned advocate submitted that this Court in the matter between Gujarat Dairy Development Corporation Ltd. v. Amrutbhai Mohanbhai Desai 1998 (1) GLH: 365, has held that raising industrial dispute for grant of permanent status and consequential benefits are not proceedings in the nature of execution or 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 provisions of Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985. Mr. Clerk submitted that in view of the law declared by this Court, the Labour Court has erred in passing the impugned order staying the proceedings of T. Applications No. 557/1991, 558/1991, 559/1991, 353/1992, 261/1992, 198/1993, 199/1993, 775/1993, 292/1993 and 534/1993.

5. Said order of the Labour Court dated September 25, 1995 was challenged by Revision Application No. 12 of 1996 before the Industrial Court, which was rejected by an order dated December 31, 1998. The petitioner had also filed T. Application No. 261/1992, 353/1993, 198/1993 and 199/1993 for reopening of the proceedings in the Labour Court, Surat, which were also rejected by an order dated September 13, 1999.

6. In view of the discussion hereinabove the Special Civil Application is allowed. The orders impugned in this petition 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.