

(2006) 03 MAD CK 0281

In the Madras High Court

Case No : C.R.P. (PD) No's. 427, 631 and 632 of 2005 and C.M.P. No's. 4481, 6977 and 6978 of 2005

M.R.F. United Workers Union

APPELLANT

Vs

M.R.F. Limited

RESPONDENT

Date of Decision : 13-03-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11
Constitution of India, 1950 — Article 227

Citation : (2006) 03 MAD CK 0281

Hon'ble Judges : T.V. Masilamani, J

Bench : Single Bench

Advocate : P. Chandrasekaran, S.C, for the Appellant; Ramasubramaniam, for the Respondent

Final Decision : Dismissed

Judgement

T.V. Masilamani, J.—The revision petitioners are the defendants in the suit in O.S. No. 13 of 2005 on the file of the District Munsif, Sholingar.

2. The respondent/plaintiff filed the suit against the revision petitioners/defendants for permanent injunction restraining them from interfering in any manner with the movement of raw materials, stock of goods, from and into the plaintiff's premises; preventing them from interfering in any manner with the movement of loyal workers, executives, officers, customers from and into plaintiff's premises; and also restraining them from gathering or demonstrating in any manner within 200 metres of the plaint schedule mentioned premises. The respondents also filed the petitions in I.A. Nos. 53 to 55 of 2005 in the said suit for temporary injunction against the revision petitioners for the said reliefs referred to above. Since the court below has granted the ad-interim injunction, the revision petitioners have preferred these revisions questioning the legality of the said orders.

3. Heard Mr. P. Chandransekaran, learned senior counsel appearing for the

revision petitioners and Mr. Ramasubramaniam, learned Counsel appearing for the respondent.

4. Learned senior counsel for the revision petitioners has argued at the outset that the court below without having any manner of jurisdiction to entertain the suit granted ad-interim injunction in favour of the respondent and that therefore the impugned orders are liable to be set aside. He has contended that the petitioners had filed a civil proceedings before this Court for declaration that the petitioners' union is a majority one and for certain other reliefs against the respondent. The original side of this Court granted leave to sue and ex parte orders were also passed in favour of the petitioners. However, subsequently on application by certain defendants the leave granted was revoked and the appeal against the stay order was also dismissed. Similarly, he has pointed out that in view of revocation of the leave to sue and consequential direction to return the plaint, the interim order passed in the said suit was also vacated.

5. While so, the respondent under the guise of disciplinary action exercised powers on concocted charges and dismissed the workmen belonging to the petitioners' union. The said suit in O.S. No. 13 of 2005 has also been instituted by the respondent without any basis and without any cause of action and therefore he has urged that the interim orders passed in pursuance of the suit which has no cause of action are liable to be vacated.

6. In this context, learned senior counsel for the revision petitioners has drawn the attention of this Court to the decision Federation of Railway Officers Association and Others Vs. Union of India (UOI), in support of his contention that under Article 227 of the Constitution of India, this Court has to invoke the supervisory jurisdiction so as to set aside the impugned orders. Moreover he has contended further that launching of action by the respondent before the court below is nothing but a clear abuse of process of court as there was no cause of action for filing the suit itself. In this context, he has referred me to the dictum of law laid down by the Apex Court in the said decision in paragraph (38) sub paras (4) and (5) which read as under:-

Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the same as hereunder:-

.. .. .

(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate Courts within the bounds of their jurisdiction. When the subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step into exercise its supervisory jurisdiction.

(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (iii) a grave injustice or gross failure of justice has occasioned thereby.

7. Per contra, learned Counsel for the respondent has pointed out the particulars in the plaint in O.S. No. 13 of 2005 on the file of the court below and contended that the cause of action being bundle of facts and a conjoint reading of the whole plaint would definitely show that there was cause of action for filing the suit, as the revision petitioners interfered with the movement of raw materials, stock of goods, loyal workers, executives, officers and customers from and into the industrial premises of the respondent and that since the revision petitioners and their union members attempted to demonstrate within the prohibited distance of 200 metres from the respondent's industrial premises, filing of the suit is necessitated.

8. In view of such factual aspect of the case, I am unable to agree with the contention of the learned senior counsel for the revision petitioners put forth on the basis of the ratio laid down in Federation of Railway Officers Association and Others Vs. Union of India (UOI), and this Court finds accordingly that this is not a fit case where the supervisory jurisdiction of this Court under Article 227 of the Constitution of India has to be invoked.

9. However, learned Counsel for the respondent has pointed the provision under Order 7 Rule 11 C.P.C. in support of his contention that the contentions of the learned senior counsel for the revision petitioners could very well be taken before the trial court itself under the said provision of law praying for rejection of the plaint and that since he failed to avail such an opportunity before the court below, the revision for the same relief is not maintainable.

10. Further, the learned Counsel for the respondent has also cited the decision S.R.F. Ltd. v. Shriram Fibres Employees Union 1994(II) L.L.N. 160 in support of his further contention that a suit for permanent injunction restraining the employees' union from obstructing its officers and workmen from entering into the factory premises and also obstructing movement of goods, vehicles to and from the factory carrying the materials and finished goods to and from the factory is maintainable in law. A careful reading of the said decision would indicate that under similar circumstances, the suit filed by the management of the factory against the employees' union for permanent injunction was held as maintainable by this Court. Similarly, the relief for permanent injunction against the employees from demonstrating within the prohibited distance was also held to be maintainable under law. Therefore this Court held ultimately that the interim injunction granted and the order of police protection in the said case were made absolute with certain modification in the impugned order.

11. On a careful analysis of the rival submissions made by both sides in the light of the dictum of law laid down in the decision 1994 (II) L.L.N.160, this Court is of the considered opinion that the impugned orders passed by the court below were in accordance with law. Therefore the revision petitions are liable to be dismissed and are accordingly dismissed. Consequently, the connected C.M.Ps. are closed. However, there shall be no order as to costs.