

(1993) 02 KL CK 0011
In the High Court Of Kerala
Case No : W.A. No. 230 of 1993

Pathanamthitta Jilla Thottam Thozhilali Union

APPELLANT

Vs

Kurian Jacob and others

RESPONDENT

Date of Decision : 09-02-1993

Acts Referred:

Citation : (1993) 1 KLJ 796

Hon'ble Judges : M. Jagannadha Rao, C.J;K. Sreedharan, J

Bench : Division Bench

Advocate : M. Ramachandran, for the Appellant;

Final Decision : Dismissed

Judgement

Jagannadha Rao, C.J.—Respondent No. 5 in the writ petition is the appellant, which claims to be a labour union. It is aggrieved by the order of the learned single Judge granting police protection to the writ petitioners against any obstruction by the appellant and three others (respondents 4 to 8 in the writ petition). The first petitioner is the manager of a rubber company and the second petitioner is a contractor who has agreed with the first petitioner about the cutting and removal of 2000 rubber trees from 15 acres of rubber plantation after completing slaughter tapping of the rubber trees. The agreement is for an amount of Rs. 3,70,000/- which has to be paid to the first petitioner by the second petitioner. The programme of slaughtering the trees and extracting rubber at the time of slaughter is a lime-bound programme under the contract and has to be completed on or before 31-3-1993.

2. It is true that before the contract to slaughter was entered into between the first and second petitioners, respondents 4 to 8 in the writ petition or other members of the union were being engaged by the first petitioner for the purpose of upkeep of the estate. But since the trees have now reached the stage of being slaughtered, the owner of the estate has a right to engage independent workers to slaughter the trees and at that time to extract maximum latex from the trees.

Such a right in the employer has been accepted in large number of decisions of this court and this is not disputed by the counsel for the appellant - union, Learned counsel however submits that this principle has to be changed and it must be laid down that even at the time of slaughtering and removing of maximum latex, the owner and the contractor of the estate should engage the same employees who were being engaged for the upkeep of the estate. We are not inclined to change the principle merely for the sake of the appellant - union. Such a principle has been laid down, even as admitted by the appellant's counsel, in a large number of cases and is being consistently followed. Apart from that the appellant or its members cannot claim a legal right to obstruct somebody else getting his work done or doing his work in his own estate. If the appellant has some legal right and the same is in breach, it is for the appellant to claim damages or sue for specific performance or go before the various authorities under the Industrial Disputes Act and seek peaceful and lawful remedies. For the above said reasons, we are of the view that the learned single Judge was right in granting police protection to the writ petitioners.

There are no merits in the appeal and the same is dismissed.