
(2013) 10 RAJ CK 0111

In the Rajasthan High Court

Case No : Civil Revision Petition No. 107/2012

Rajasthan State Road Transport Corporation and Others

APPELLANT

Vs

Bhoor Singh

RESPONDENT

Date of Decision : 30-10-2013

Acts Referred:

Citation : (2014) 1 WLN 561

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Judgement

Bela M. Trivedi, J.—The present revision petition has been filed by the petitioners-defendants under Sec. 115 of Code of Civil Procedure, 1908 challenging the order dt. 19.07.2012 passed by the Additional Civil Judge (Junior Division) No. 2, Jaipur Metropolitan, Jaipur (hereinafter referred to as "the trial Court") in Civil Suit No. 293/2010, whereby the trial Court has dismissed the application of the petitioners-defendants filed under Order VII Rule 11 of C.P.C. It appears that the respondent-plaintiff has filed the suit challenging his termination order on the ground that the petitioners-defendants had passed the said order in violation of the principle of natural justice. In the said suit, the petitioners-defendants had filed the application under Order VII Rule 11 of C.P.C. contending inter-alia that the Court did not have the jurisdiction to try the suit as the services of the respondent-plaintiff was governed under the Rajasthan State Road Transport Workers and Workshop Employees (Standing) Orders, 1965 and as per the Schedule-2 of the Industrial Disputes Act, 1947, such dispute could be decided by the Labour Court or by the Industrial Court only. The trial Court, having considered the facts and circumstances of the case and after hearing the learned counsel for the parties, has dismissed the said application vide impugned order, against which the present revision petition has been filed.

2. The learned Senior Counsel Mr. J.K. Singhi assisted by Mr. Amitabh Jatav, for the petitioners relying upon the decisions of Hon'ble Apex Court in cases of R.S.R.T.C. and Others Vs. Deen Dayal Sharma, , Rajasthan State Road Transport

Corporation and Another Vs. Bal Mukund Bairwa, & Damodaran Pillai and Others Vs. South Indian Bank Ltd., has submitted that the services of the respondent having been terminated in view of the Standing Orders of the petitioners, only the Labour Court would have the jurisdiction to decide the dispute, as per the Industrial Disputes Act, and that the jurisdiction of the Civil Court is impliedly barred.

3. The Court does not find any substance in any of the submissions made by the learned counsel for the petitioners. It cannot be gainsaid that the question of jurisdiction would be a mixed question of law and fact, and the same could be decided only when both the parties lead their respective evidence in the suit. It is also pertinent to note that the plaint of the plaintiff could be rejected under Order VII Rule 11(D) of the C.P.C. only if from the averments made in the plaint, the suit appears to be barred under the law. The learned counsel has failed to point out as to under which law, the suit was barred. The trial Court has rightly held that the question of jurisdiction could not be decided at the stage of the application. In the decision of RSRTC vs. Deen Dayal Sharma (*supra*), the Apex Court has categorically held that if the infringement of the Standing Orders is alleged, the Civil Court's jurisdiction may be held to be barred, but if the suit is based on the violation of principles of common law or constitutional provisions or on other grounds, the Civil Court's jurisdiction may not be held to be barred. In absence of any specific bar of law pointed out by the learned counsel for the petitioners, the present revision petition does not deserve any consideration. In that view of the matter, the revision petition being devoid of any merits, deserves to be dismissed and is, accordingly, dismissed.