

(2014) 05 P&H CK 0151

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 890 of 2010 (O&M)

Satish Chand

APPELLANT

Vs

High Polymers Labs Pvt. Ltd. and Others

RESPONDENT

Date of Decision : 12-05-2014

Acts Referred:

Citation : (2014) 176 PLR 187

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : Abha Rathore, Advocates for the Appellant; R.N. Singhal, Advocates for the Respondent

Judgement

Paramjeet Singh, J.—This regular second appeal of defendant No. 5 is directed against the judgment and decree dated 24.04.2008 passed by learned Additional Civil Judge (Sr. Divn.), Faridabad whereby suit filed by respondent No. 1-plaintiff for permanent injunction has been decreed and against the judgment and decree dated 03.09.2009 passed by learned Additional District Judge, Faridabad whereby two separate appeals filed by defendants No. 2 to 4 and appellant-defendant No. 5 have been partly allowed. For convenience sake, hereinafter, reference to parties is being made as per their status in civil suit.

2. The detailed facts tire already recapitulated in the judgments of the courts below and are not required to be reproduced. In brief, the facts relevant for disposal of this second appeal are to the effect that the plaintiff filed a suit for permanent injunction restraining the defendants from interfering in the smooth working of the plaintiff-Company, stopping egress and ingress of men, material and vehicular traffic to and fro the plaintiff-Company at plot Nos. 6, 7 and 8 of Sector 25, Faridabad and further for restraining the defendants from holding any general body meeting, gate meeting, holding demonstration, shouting filthy and defamatory slogans, to use loud speakers and further from stopping loyal workers from working inside the factory and also restraining the defendants from sitting on Dharna, pitching tents and carrying out demonstrations, agitation,

installing banners or holding meeting etc. within the radius of 500 metres of the main gate and boundary wall of the plaintiff-factory. It was pleaded in plaint that defendants No. 5 to 7, who are dismissed employees of the plaintiff, have misguided the workers of the plaintiff to boycott the safety equipment so that in case of any fatal accident, the manager/occupier of the plaintiff company are prosecuted. Defendants No. 5 to 7 with ulterior motives started creating problems in smooth running of the factory despite the fact that they have no right whatsoever, being the dismissed employees of the Company. On 29.11.2004, defendants No. 5 to 7 along with others came to the factory gate and started holding gate meeting without any permission. They raised filthy and abusive slogans against the officers, managers and top brass of the company and stopped the egress and ingress of men, material and vehicular traffic to and from the factory of the company. On 30.11.2004, defendants No. 5 to 7 along with other defendants came to the factory gate and threatened the managers and other staff for dire consequences. It was further pleaded that defendant No. 8 had submitted a charter of demands dated 08.12.2004 despite the fact that tripartite settlement was still operative and binding on all the workmen of the factory. Hence, suit was filed.

3. Defendants No. 2 to 7 resisted the suit and filed written statement taking various preliminary objections. On merits, it was pleaded that they had merely raised their legal demands as per law and as per compromise/settlement of the workers with management, however, the plaintiff had illegally terminated the services of the representatives of the employees' union. Defendant No. 8 is colluding with the plaintiff-Company and he is not in fact the president of the workers' union. The earlier suits filed by the plaintiff have been dismissed as withdrawn. Other averments in plaint were, denied and dismissal of suit was prayed for.

4. Defendant No. 8 filed separate written statement and pleaded that he being elected president of the union, has every right to settle or take part in the negotiations and conciliation meetings on behalf of the union. Defendants No. 5 to 7 have been dismissed. Denying the averments in plaint, dismissal of suit was prayed for.

5. A counter-claim was filed by defendant No. 8 & Union, but not signed by Shellen Singh, rather signed by Satish Kumar and Virender whereby after repeating the stand taken in written statement, prayer was made to restrain the plaintiff/its officers/security guards etc. from interfering in the peaceful demonstration, Dharna, agitation etc. in front of the factory and at the places as detailed in para 3 of the counter-claim, which is far from the factory gate.

6. Reply to the counter-claim was filed and it was pleaded that counter-claimant is not representative of the union.

7. On the basis of pleadings of parties, the Court of first instance framed following issues:

"1. Whether the plaintiff is entitled for permanent injunction against the defendant on the grounds as alleged? OPP

2. Whether present suit is not maintainable? OPD

3. Whether plaintiff has no cause of action and locus standi to file the present suit? OPD

4. Relief."

8. After appreciating the evidence, the Court of first instance decreed the suit, however, allowed the defendants to carry out demonstration beyond radius of 200 metres from the main gate. Feeling aggrieved, defendants No. 2 to 4 and defendant No. S preferred two separate appeals which have been allowed to the extent that defendants may sit on the dharna and carry out demonstration and hold meeting etc. only beyond the radius of 100 metres from the main gate/boundary of the factory of the plaintiff company and further that such Dharna and demonstration etc. are to be peaceful and should not obstruct the plaintiff, its management etc. in their functioning. Hence, this second appeal.

9. Learned counsel for the appellant submitted that following substantial questions of law, formulated in the grounds of appeal, arise for consideration in this appeal:

"(i) Whether the judgments passed by both the courts below are liable to be set aside because the courts below have relied on unproved impermissible documents?

(ii) Whether the directions given by the Appellate Court prohibiting demonstration by the Union within 100 metres from the factory, constitute an obstruction in the right of the workman to hold peaceful demonstration, since there is no place after 100 metres for the workman to sit and hold peaceful demonstration?

(iii) Whether the appellate court has failed to appreciate the settlement in which condition No. 17 gave right to the union to move a demand notice three months before the date when the settlement was to expire?

(iv) Whether the management has led any documentary evidence to show that the union was indulging in violent activities and whether interference by the civil court in the right of the workman to hold demonstration is illegal?"

10. I have heard learned counsel for the parties and perused the record.

11. The only dispute is with regard to the distance fixed by the courts below.

12. Learned counsel for the appellant contends that there is a space available beyond 100 metres for sitting as well as demonstration purposes. However, only space available is at a distance about 30-50. metres away opposite gate No. 3 which is a green belt

13. This fact has not been disputed by learned counsel for respondent No. 1. In view of above, the impugned judgments and decrees are modified to the extent that appellant will be entitled to sit and demonstrate in vacant green belt area lying opposite gate No. 3 which is stated to be about 35 metres away. However, the appellant will not sit over and block the passage of the people. The appellant will not create any hindrance in the free flow of the traffic. Other conditions imposed by the courts below will remain as it is.

Disposed of in the aforementioned terms.