

(2001) 10 DEL CK 0118
In the Delhi High Court
Case No : Suit No. 2580 of 2000

Standard Chartered Bank

APPELLANT

Vs

Hindustan Engineering and General Mazdoor Union and
Others

RESPONDENT

Date of Decision : 10-10-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 19, 19(1)
Trade Unions Act, 1926 — Section 18

Citation : (2002) 95 DLT 182

Hon'ble Judges : Jiwan Dass Kapoor, J

Bench : Single Bench

Advocate : Shobhit Gupta, for the Appellant;

Judgement

J.D. Kapoor, J.—This is a suit for permanent and mandatory injunction restraining the defendant Nos. 1 & 2 and their agents, representatives or members from holding any demonstration and for directions to the defendant No. 3 to act in accordance with law.

2. The facts in brief are as under:-

3. The plaintiff is a bank incorporated in England with limited liability by Royal Charter 1853 having its Indian corporate office at New Excelsior Building, 3rd & 4th floor, A.K. Naik Marg, Mumbai and its branch office at 17, Parliament Street, New Delhi. The plaintiff received a letter in the evening of 17.11.2000 from the defendant No. 1 union wherein defendant No. 1 union has threatened a massive demonstration before the plaintiff bank office situated at 17, Parliament Street, New Delhi. Perusal of the said letter indicates that the said letter was issued at the behest of defendant No. 2. Defendant No. 2 also happens to be the President of defendant No. 1. Defendant No. 2 is the proprietor/partner of Mahashakti Electronics and has an account with plaintiff bank. There was a dispute with defendant No. 2 in respect of the account which he holds with the plaintiff bank

and the dishonour of cheque issued by defendant No. 2. It was stated in the said letter that a demonstration was earlier planned for 19.11.2000 which has since been postponed for 20.11.2000.

4. It is averred that defendant No. 1 - Union has no privity of any transactions with the plaintiff bank and Therefore has no locus standi whatsoever to hold the threatened demonstration in front of the plaintiff bank's office. It is further averred that plaintiff bank is a large concern doing respectable worldwide banking business. The threatened demonstration shall also hamper the normal banking activity of the plaintiff bank and would cause unnecessary and avoidable inconvenience to the customers of the plaintiff bank as well as the general public.

5. Immunity is provided to the registered trade union from being sued by way of civil suit u/s 18 of the Trade Union s Act, 1926 in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

6. Further, the exercise of the freedom, if any granted under Article 19(1)(g) does not confer any exclusive right on a union to hold demonstration, particularly when they have no right to do so.

7. Despite service of summons, defendants did not choose to appear and contest the pleadings and were proceeded ex-parte.

8. What is relevant as to the right to freedom of speech and expression for the aforesaid purpose is as to what is the nature and extent of right to hold demonstrations and whether such a right is absolute right in terms of Article 19 of the Constitution of India which guarantees the right of freedom of speech and of assembling peacefully and grants freedom of form associations as contemplated by Clause 9(b) and (c) of the Article 19.

9. Again there is unvarying unanimous opinion that such a right is not unfettered or absolute or in the nature of free for all. In 1991 LLR 792. Singh, J. also dealt with this aspect at great length and placing reliance on Kameshwar Prasad and Others Vs. The State of Bihar and Another, ; Railway Board Representing The Union of India (UOI) Vs. Niranjana Singh, 1966 Lab. IC 1543, The Association of State Road Transport Undertakings v. The Association of State Road Transport Undertakings Employees Union (Regd.) and Others. observed that every citizen of India has freedom of speech and to form associations and unions but there is no right to hold meetings and shout slogans at premises legally occupied by another. Freedom is thus shackled by responsibility. There can be no freedom without responsibility.

10. In AIR 1983 SC 1302, Food Corporation of India and Anr. v. Yadav Engineer and Contractor, it was held that under the statute or Article 19 of the

Constitution jurisdiction of civil court is not barred u/s 9 CPC.

11. However there is a unanimity that legitimate right of the Unions can be preserved and protected only by allowing them to hold demonstrations at a distance of 50 or 100 meters from the legally occupied premises.

12. In view of this position of law and the right of the union, the suit is decreed to the extent that defendants are restrained from holding demonstration etc. within a radius of 100 meters from the suit property occupied by the plaintiff.