

(1949) 03 BOM CK 0026
In the Bombay High Court
Case No : Appeal No. 14 of 1949

The Shamnugger Jute Factory Co. Ltd.

APPELLANT

Vs

S.M. Modak

RESPONDENT

Date of Decision : 30-03-1949

Acts Referred:

Industrial Disputes Act, 1947 — Section 7
Payment of Wages Act, 1936 — Section 15

Citation : (1950) 52 BOMLR 178 : (1942) 55 LW 1158

Hon'ble Judges : Patanjali Sastri, J; Mukherjea, J; Mahajan, J; Harilal Kania, J; Fazl Ali, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Harilal Kania, Kt., C.J.—This is an appeal from a judgment of the High Court of Judicature at Fort William in Bengal. The appellant (petitioner) is a limited company incorporated under the Scottish Companies Act and having its registered office in Dundee, Scotland, and carrying on business, inter alia, in Calcutta within the Ordinary Civil Jurisdiction of the Calcutta High Court. The appellant employed at its mill about 4844 workmen. On February 9, 1948, the petitioner employed one Kishan Deo, but his services were terminated on March 23, 1948. There appeared to have been trouble in respect of the discontinuance in service of this employee, and apprehending a breach of the peace, the petitioners put up a notice closing the mill. The mill was re-opened after a few days, but the workmen did not return to work because Kishan Deo and two other workmen were not offered re-employment. The Government of West Bengal, acting under the Industrial Disputes Act, 1947, referred for adjudication by the Industrial Tribunal the dispute which had arisen between the management of the petitioner company and their workmen. The Tribunal consisted of three members who are grouped as first respondents to this appeal. The Tribunal, in spite of the protest of the appellant, having intimated that they will proceed with the adjudication, the petitioners filed a petition in the High Court asking for writs of

certiorari and prohibition and an order, in effect, u/s 45 of the Specific Relief Act, claiming that the Tribunal had no jurisdiction to determine the question of payment of wages during the lock-out period as an industrial dispute.

2. On the question of jurisdiction of the Court to issue the writs of certiorari and prohibition, the position is the same as in the appeal of the Indian Paper Pulp Company, Ltd. (1949) 52 Bom. L.R. 176

3. The main dispute related to the lock-out and the claim of the workmen to payment of wages during the period of the alleged lock-out. It seems to us clear that the question whether the employers were justified in locking out their workmen would be an industrial dispute covered by the words.

dispute which is connected with the employment or non-employment and with the terms of employment of such workmen.

The payment of wages during the period of such lock-out would also be clearly an industrial dispute.

4. The only additional argument urged before us was that the claim to such payment should be determined under the Payment of Wages Act, because Section 15 of that Act creates the Tribunal and u/s 22(d) of that Act the jurisdiction of civil Courts to hear a suit for wages is excluded. In our opinion this argument is unsound. Section 22(d) only prevents a suit for wages. It does not exclude any other proceeding permitted by law to enforce payment. The Tribunal contemplated by Section 15 of the Payment of Wages Act is not, in our opinion, one which could affect the jurisdiction of the Tribunal set up u/s 7 of the Industrial Disputes Act and to which a reference could be made u/s 10 of that Act. The Tribunal setup under the Industrial Disputes Act has a much wider jurisdiction. In our opinion the two Acts are not in pari materia, and the contention that the jurisdiction of the Tribunal set up under the Industrial Disputes Act is excluded by the provisions of the Payment of Wages Act is unwarranted. The other questions raised in the appeal are covered by the judgment of the Court in Western India Automobile Association Vs. The Industrial Tribunal, delivered to-day. The appeal therefore fails and is dismissed. The appellants to pay the costs to respondent No. 2.