

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 1837/2013

Reserved on: 01.05.2015

Date of decision: 22.05.2015

IN THE MATTER OF:

M/S G4S SECURE SOLUTIONS (INDIA) PVT LTD Plaintiff

Through: Mr. Sanjiv Bahl, Advocate with
Mr. Eklavya Bahl, Advocate

versus

GROUP 4 SECURATAS KARAMCHARI SANGH (REGD) AND ANR

..... Defendants

Through: Defendants are *ex-parte*.

CORAM

HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J.

1. The plaintiff, which is a private limited company incorporated under the Indian Companies Act, has instituted the present suit against the defendant No.1/Group 4 Securatas Karamchari Sangh (Regd.) and defendant No.2/Bhartiya Mazdoor Sangh, for a decree of permanent injunction, restraining the defendants, their office bearers, supporters, workers etc. from shouting slogans, holding dharnas, demonstration, meetings, creating nuisance, picketing, intimidating or obstructing the ingress/egress of its employees, officers, staff, workers, visitors etc. in any manner at all its branches and at the sites

of its clients, where the employees of the plaintiff/company are posted, including the three addresses mentioned in prayer (A), within a radius of 100 meters from the gates/boundary wall of the said premises, namely, (i) the registered and regional office at 16, Community Centre, C-Block, Janak Puri, New Delhi, (ii) the corporate office at Panchwati, 82A, Sector 18, Gurgaon (Haryana), and (iii) G4S Training Centre at 60-A, C-Block, Community Centre, Behind Janak Cinema, Janak Puri, New Delhi.

2. Counsel for the plaintiff had stated that the plaintiff is one of the largest security service companies having its regional office at 16, Community Centre, C-Block, Janak Puri, New Delhi, and has nine branches in Delhi. The plaintiff is engaged in the business of providing security and other services at various offices of its clients, who are mainly in the corporate sectors, are public sector banks and other institutions. The plaintiff has employed a large workforce for its company, and they are mostly posted in Delhi. As per the plaintiff, during the past few years, some disgruntled employees of the company working in Delhi, have been indulging in unfair labour activities for their ulterior motives and vested interest with the sole intention of disrupting industrial peace and harmony of the company.

It is alleged that with the objective of compelling the plaintiff to fulfill their unlawful demands, various labour unions have been pressurizing the plaintiff's employees to join them and indulge in activities that are detrimental to the interest of the plaintiff/company.

3. In the year 2007, some employees in connivance with the trade unions had tried to obstruct the ingress/egress of other employees and had threatened to hold demonstrations in front of the offices of the plaintiff and the residences of its senior staff, which had compelled it to approach the Court for seeking an injunction order in CS(OS) 1555/2007. Vide order dated 24.08.2007, passed in the said suit, the Court had granted an interim injunction, restraining the defendants therein from holding any demonstration within a radius of 100 meters from the gates of the plaintiff's offices and from holding any demonstration at the residences of the plaintiff's officers, and further, from blocking the ingress and egress of the staff and the workers of the plaintiff. A copy of the said order has been filed by the plaintiff and is marked as Ex.PW1/3. Counsel for the plaintiff had submitted that the aforesaid suit was finally decreed on 26.03.2008 and a copy of the said judgment has been filed and marked as Ex.PW1/4.

4. In the very next year, i.e., in the year 2009, a new union had emerged and its members had refused to abide by the orders passed in CS(OS) 1555/2007 on the ground that it did not bind them. The plaintiff was therefore constrained to file another suit for injunction before the High Court, registered as CS(OS) 355/2009, wherein an ex-parte ad interim order dated 20.02.2009 was passed, restraining the defendants therein from holding any demonstrations within 100 meters from the gates of the plaintiff's offices and from holding any demonstrations at the residences of the plaintiff's officers, and further, from blocking the ingress and egress of the staff and the workers of the plaintiff. A copy of the said order has been filed by the plaintiff and is marked as Ex.PW1/5. The said suit was finally decreed on 18.11.2011. A copy of the said judgment and decree is marked as Ex.PW1/6.

5. Counsel for the plaintiff stated that in the very same year, i.e., in the year 2009, another union had come up and its members had refused to submit themselves to the orders passed in CS(OS) 1555/2007 and CS(OS) 355/2009 on the ground that they were not parties to the said proceedings. As a result, the plaintiff had instituted a suit against the said union and its members, registered as

CS(OS) 833/2009. Vide ex-parte ad interim injunction order dated 08.05.2009, the defendants therein were restrained from holding any demonstration within 25 meters from the gates of the offices and 100 meters from the residences of the plaintiff's officers, and further, from blocking the ingress and egress of the staff and the workers of the plaintiff. A copy of the said order has been filed and marked as Ex.PW1/7. The said suit was finally decreed on 17.02.2011. A copy of the said judgment and decree is marked as Ex.PW1/8.

6. The fourth round of litigation had to be initiated by the plaintiff by filing CS(OS) 225/2010, wherein an ex-parte ad interim injunction order dated 09.02.2010 was granted against the defendants therein, restraining them from holding any demonstration within a radius of 100 meters from the gates of the offices at places mentioned in the plaint. A copy of the said order has been filed and is marked as Ex.PW1/9. The said suit was decreed vide judgment dated 29.03.2012. A copy of the said judgment and decree is marked as Ex.PW1/10.

7. In the year 2011, when another union had mushroomed from amongst the employees of the plaintiff company and its members had started to threaten the plaintiff and its employees and disrupt its

business, the plaintiff was constrained to file a suit in the High Court, registered as CS(OS) 1746/2011. Vide ex-parte ad interim injunction order dated 22.07.2011, the defendants therein were restrained from holding any demonstration within 100 meters from the gates of the offices at places mentioned in the plaint. A copy of the said order has been filed and is marked as Ex.PW1/11. The said suit was decreed vide judgment dated 29.03.2012, a copy whereof is marked as Ex.PW1/12.

8. Counsel for the plaintiff stated that now the present defendant union has emerged and to demonstrate their strength and make their presence felt in the company, their office bearers and members have started pressurizing the plaintiff to accede to their unlawful demands, including granting their members illegal promotion. He submitted that although the defendants/unions are not recognized by the plaintiff, but in the interest of the organization and its employees, the plaintiff has been negotiating with them only with the purpose of resolving their grievance through amicable resolution. However, with the increasing number of unions mushrooming amongst the employees of the plaintiff/company, it has been noticed that they have started to interfere in the day to day affairs of the company only to flex their

muscles and try to establish their predominant position amongst the workers.

9. In furtherance to the aforesaid *malafide* intention, the defendants had served a notice dated 01.07.2013 on the plaintiff, raising certain demands, which were found to be illegal. A copy of the said notice has been filed and is marked as Ex.PW1/13. On receiving the said demand notice, the officers of the plaintiff had arranged a meeting with the representatives of the defendants on 25.07.2013 but it had not borne any fruitful result. Thereafter, the defendants had served a notice dated 07.08.2013 on the plaintiff, again threatening to hold demonstrations etc. A copy of the said notice has been filed and is marked as Ex.PW1/14. On receiving the said notice, the plaintiff had pleaded with the defendants not to take the law in their hands, but to no avail. Finally, on 30.08.2013, the members of the defendants/unions had held demonstrations and despite several request made by the officers of the plaintiff/company, they did not come forward to sit across the table for holding talks to resolve their grievance.

10. It was stated by the counsel for the plaintiff that from 19.09.2013 onwards, the defendants had started obstructing the ingress and

egress of the employees, visitors, officers of the plaintiff/company at 16, Community Centre, C-Block, Janak Puri, New Delhi and 60-A, C-Block, Community Centre, Behind Janak Cinema, Janak Puri, New Delhi. They had also threatened to intensify the demonstrations and hold dharnas at the aforesaid places on 23.09.2013. They had warned the plaintiff that they would hold mammoth gatherings, processions, dharnas and demonstrations etc. in front of the main entrance of the aforesaid two regional offices as also the corporate office of the plaintiff situated at Panchwati, Gurgaon. The plaintiff was warned by the defendants that they would gherao its officers and staff and bring the work of the company to a grinding halt from 23.09.2013. Faced with such a precarious situation, the plaintiff had no option but to approach the Court by filing the present suit.

11. The present suit has been instituted by the plaintiff through Mr.Sanjeev Kumar Taku, General Manager (Legal) of the company, who has been authorized to sign, verify and file the present suit and take all actions in furtherance thereto by virtue of the Power of Attorney executed in his favour, a copy whereof has been filed and is marked as Ex.PW1/2. The certificate of incorporation issued by the Registrar of Companies in favour of the plaintiff has been filed and is

marked as Ex.PW1/1. At the time of instituting the present suit, the plaintiff had averred in the plaint that though the defendants were informed about the judgments/decrees operating in CS(OS) 1555/2007, 355/2009, 833/2009, 225/2010 and 1746/2011 and were advised not to take the law into their hands, they had decided to go ahead by holding violent demonstrations w.e.f. 23.09.2013 and the management had a genuine apprehension that the defendants and their members would disrupt the functioning of the company and would indulge in demonstrations at the different offices of the plaintiff by mobilizing the other employees of the plaintiff/company and inciting them to indulge in illegal acts.

12. Apprehending a serious law and order problem at its head office, regional offices and various branches, the plaintiff/company had instituted the present suit that was registered on 23.09.2013 and summons were issued to the defendants, returnable before the Joint Registrar on 15.01.2014 and before the Court on 12.12.2013. On the said date, an ex-parte ad interim injunction order was granted in favour of the plaintiff, whereunder the defendants, their agents, members, assigns etc. were restrained from blocking the ingress and egress of its employees, officers, staff workers, visitors, vehicles and

other members of the public. Further, the defendants were restrained from holding any dharna/demonstration/meeting within a radius of 100 meters from the gates of the plaintiff's two offices referred to hereinabove, till further orders.

13. A perusal of the order sheets reveals that despite service, none had appeared on behalf of either of the defendants. Vide order dated 10.07.2014, the defendants were proceeded against ex-parte and the plaintiff was directed to file its affidavits by way of evidence. Pursuant thereto, Mr.Sanjeev Kumar Taku, General Manager (Legal) of the plaintiff(PW-1), who had instituted the suit on behalf of the plaintiff, had submitted his affidavit by way of evidence, which had been marked as Ex.PW1/A. After PW-1 was examined and the plaintiff's evidence was closed on 28.01.2015, the Joint Registrar had forwarded the case to the court.

14. As the defendants have failed to approach the Court for setting aside of the ex-parte ad interim injunction order dated 23.09.2013 and the plaintiff's witness has not been cross-examined by them, the contents of the affidavit filed by PW-1 remain unrebutted and the documents filed alongwith the suit are deemed to be admitted.

15. Coming to the legal position, there can be no quarrel with the proposition that the employees and the trade unions have a right to hold demonstrations for achieving their legitimate demands and to meet their demands, the members of the defendants are well entitled to ventilate their grievance through lawful means. But they do not have an absolute right to do so and nor can they be permitted to use abusive language, indulge in violence or obstruct the ingress and egress of the other employees, officers and visitors of the organization. It is not out of place to mention here that when demonstrations of such a nature are organized by the workers/unions, tempers run high and the employees are on a short fuse. On several occasions, in the heat of the agitation, it becomes virtually impossible to control the angry outbursts and passion of the mob. It is this looming apprehension in the mind of the plaintiff that the defendants and its members were likely to breach the law and order and disrupt the affairs of the company in the course of holding demonstrations/dharnas/gate meetings etc. outside the premises of the organization or in the vicinity where the workers are employed, that has brought it to the Court for relief. It is not unknown that in the course of such dharnas/demonstrations, the property of the employer

is also damaged and their non-participant employees are targeted by the agitating employees, who tend to vent their anger on them.

16. A similar fate awaits senior officers and visitors of the organization, who fear being victimized, manhandled and prevented from entering the work place or conducting routine duties at work. It is to safeguard the employees and officers, who are willing to work and the visitors, who wish to conduct business with the organization that the courts are expected to intervene and curb any unlawful activity that may be indulged in by the trade unions and their members and try and ensure that the demonstrations/dharnas/gate meetings etc. remain peaceful, free from strife and non-obstructive. It is in furtherance to the said objective that imposition of reasonable restrictions on the freedom granted to the employees has remained an integral part of a catena of decisions rendered to meet such an eventuality, including the decisions in the case of Rail India Technical and Economic Services Ltd. Vs. Bhartiya General Mazdoor Congress & Ors. reported at **97(2002) DLT 521**, Standing Conference of Public Enterprises Vs. Delhi Office & Est.Employee Union & Ors. reported at **104(2003) DLT 112**, and Escorts Heart Institute & Research Vs.

Delhi Mazdoor Sangathan Regd. & Ors. reported at **132(2006) DLT 308.**

17. In the case of Railway Board representing the Union of India Vs. Niranjan Singh reported as **(1969) 1 SCC 502**, the Supreme Court had observed as below:-

"12. It is true that the freedoms guaranteed under our Constitution are very valuable freedoms and this Court would resist abridging the ambit of those freedoms except to the extent permitted by the Constitution. **The fact that the citizens of this country have freedom of speech, freedom to assemble peaceably and freedom to form- associations or unions does not mean that they can exercise those freedoms in whatever place they please. The exercise of those freedoms will come to an end as soon as the right of someone else to hold his property intervenes.** Such a limitation is inherent in the exercise of those rights. The validity of that limitation is not to be judged by the tests prescribed by Sub-Arts. (2) and (3) of Article 19. In other words the contents of the freedoms guaranteed under clauses (a), (b) and (c), the only freedoms with which we are concerned in this appeal, do not include the right to exercise them in the properties belonging to others. **If Mr. Garg is right in his contentions then a citizen of this country in the exercise of his right under Clauses (d) and (e) of Article 19(1) could move about freely in a public-office or even reside there unless there exists some law imposing reasonable restrictions on the exercise of those rights.**" (emphasis added)

18. In the case of M/s Asian Hotels Ltd. Vs. Asian Hotels Employees Union & Ors., reported as **82(1999) DLT 91**, it was held that running a five-state hotel required a high degree of efficiency and that any unsavoury incident or obstruction of the ingress or egress or holding of a demonstration which has the potential to turn violent or create a nuisance, could scare away customers or mar the image of the hotel. The aforesaid decision was reinforced in the case of ITC Ltd. Vs. Maurya Sheraton Hotel Kamgar Congress & Ors. reported as **95 (2002) DLT 133**.

19. In the case of Delhi Public School through its Principal & Anr. Vs. The Delhi State School Karamchari Union(Regd.) & Ors. reported as **AIR 2002 Delhi 36**, it was held that Unions/employees do not have the right to hold a demonstration at the residence of the employer as the same is specifically prohibited under the Industrial Disputes Act and it would amount to unfair labour practices on the part of the Union.

20. Regarding the fixation of the distance within which the agitating employees should be restrained from agitating, it was held in the case of Asian Hotels Ltd.(supra) as follows:

"9. Plaintiffs have the fundamental right to carry on their business activity without obstruction and hindrance by violent demonstrations. At the same

time, defendants cannot be denied the freedom to ventilate their grievances. **A balance has to be struck in the exercise of legitimate trade union activity and preventing any obstruction in the right to carry on business.** Defendants ought not to be prevented from a peaceful mechanism to display group feelings towards a cause and for redressal of their grievances. Towards this end, they have a right to peacefully demonstrate and to have their presence felt. Such a presence may even act as a catalyst and is conducive in bringing the parties to the negotiating table, leading to a settlement of disputes.

10. There cannot be a strait jacket formula for fixing the distance within which the agitating employees should be restrained from demonstrating. The distance would depend upon a variety of factors, such as the topography of the area, the approach and exit from the building, the proximity and existence of other establishments, the nature of the industry, etc. and finally the individually facts and circumstances of the case.” (emphasis added)

21. In the instant case, as noted above, after the service of summons in the suit, the defendants had failed to appear and nor had they filed their written statement. None has stepped forward on behalf of the defendants to cross-examine the plaintiff's witness.

22. Having regard to the averments made in the plaint and on perusing the affidavit filed by a senior officer of the plaintiff/company that has gone unrebutted and after examining the documents filed by the plaintiff, this Court is of the opinion that the plaintiff has succeeded

in establishing a case for grant of a decree of permanent injunction in its favour. Accordingly, the suit is decreed in favour of the plaintiff and against the defendants and a decree of mandatory injunction is issued restraining the defendants, its members, associates etc. as below:

- (a) holding *Dharnas*, demonstrations, blockade, picketing, conducting gate meetings, shouting slogans etc. within a radius of 100 meters from the two main gates of the plaintiff's office at 16, Community Centre, C-Block, Janak Puri, New Delhi and the training centre at 60-A, C-Block, Community Centre, Behind Janak Cinema, Janak Puri, New Delhi
- (b) obstructing/preventing/intimidating and/or blocking the ingress and egress of the employees, visitors, guests etc. of the plaintiff.
- (c) obstructing any other person from visiting the premises of the plaintiff company or carrying out the normal functioning and duties within the subject premises.

23. The suit is disposed of. No order as to costs. Decree sheet be prepared accordingly.

MAY 22, 2015
rkb/mk

(HIMA KOHLI)
JUDGE