

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 11536 of 2023

Petitioner :- M/S United Spirits Limited (Unit Rosa)

Respondent :- Usl Distillery Labour Union And 6 Others

Counsel for Petitioner :- Nitin Sharma

Hon'ble Jayant Banerji,J.

1. Heard Shri Ravi Kant, learned Senior Advocate assisted by Shri Nitin Sharma, learned counsel for the petitioner.

2. This petition has been filed seeking the following relief:

"i. Issue an appropriate Order or Direction calling for the records and set aside the order dated 02.11.2023 passed by Incharge Civil Judge (SD), Shahjahanpur in Original Suit No.651 of 2023 titled M/s United Spirits Limited vs. USL Distillery Labour Union and others (CNR No.UPSHO50010202033) to the extent of non-consideration of the ad-interim injunction application (6C) as the matter requires urgent consideration under the facts and circumstances of the case.

ii. Issue an appropriate Order or Direction to the concerned court below to decide the ad-interim application (6C) on the next date fixed i.e., 17.11.2023 or within the time stipulated by the Hon'ble Court in accordance with law and procedure.

iii. Issue an appropriate order or direction directing the defendants their agents, assignees, henchmen, permanent workmen, others and person acting in concert with defendants be restrained during pendency of suit from doing any illegal activities viz entering premises of the plaintiff company, raising slogan, sitting on dharna, creating hindrances in the ingress and egress of man and material in the plant of the plaintiff company and at the residences of the company officials within a radius of 1000 meter of the plaintiff company's Factory gate and boundary premises.

iv. Issue an any other order or direction which the Hon'ble Court may deem fit and proper in the circumstances of the present case.

v. Award costs to the petitioner from the contesting respondents."

3. It appears that the petitioner which is a company incorporated under the Companies Act, 1956 and having its registered office at Bangalore, has a unit in District- Sahjahanpur referred as to unit Rosa. The suit was filed stating that the factory was established in the year 1805 under the name and style of Carew and Company

and the structure and machinery of the factory is very old and the operations of the factory have been kept under suspension since the year, 2013. Since, restarting operations of the factory requires heavy capital infusion which was currently not possible for the plaintiff to arrange, the plaintiff company had introduced a Voluntary Separation Scheme dated 15.9.2023.

4. It is stated in the same vein that no amicable settlement could be arrived at, due to high demands made by the defendants. Defendants Nos. 1 to 5 are registered/unregistered trade unions. It is also stated in the plaint that after following the mandate and procedure provided under the Industrial Disputes Act, 1947 and the Uttar Pradesh Industrial Dispute Rules, 1957, the factory had been closed. It is stated in the plaint that after notice of closure of the factory was served and displayed on 31.10.2023, the defendant Nos. 1 to 7 along with other workmen supported by local union and influencers illegally and without permission, entered the factory premises and took the factory under their control, and tried to damage the factory structure and machinery.

5. It is further stated that the life of the officers of the plaintiff company and the property of the company is being threatened by the defendant-respondents who are also raising slogans, sitting on dharna and creating hindrances in the ingress and egress of persons in the factory of the plaintiff company. Accordingly, the decree of permanent injunction was sought in the plaint restraining the defendant Nos. 1 to 7 and their agents, assignees, henchmen, permanent workmen, and other persons from doing illegal activities within a radius of 300 meter of the plaintiff company's factory gate and boundary premises. Along with the aforesaid suit, an application under Order 39 rule 1 and 2 read with Section 151 CPC was also filed by the plaintiff.

6. The suit was presented on 2.11.2023 in the court of the Civil Judge (Senior Division), being Original suit No. 651 of 2023. The trial court noted the relief sought in the application for temporary injunction, the documents filed by the plaintiff-petitioner and noted that *prima facie*, the dispute arises out of the closure of the plant of the company and that the workers union have got a right to sit on dharna and under the circumstances, there are not sufficient grounds for granting an *ex-parte* ad-interim injunction, accordingly, notice was directed to be issued on the application 6C for temporary injunction.

7. The contention of learned counsel for the petitioner is that, after compliance of the provisions of Section 6W of the Uttar Pradesh

Industrial Disputes Act, 1947, the closure was effected and under the circumstances, the defendants have got no right to create hindrance in the company. It is stated that the lives of the officers of the company and the property of the company are being threatened by the acts of the defendants.

8. In the present case, given the stage the petitioners have approached this court, it would not be appropriate for this Court to express any opinion that would touch on the merits of the case of either of the parties. The interest of the disputing parties would be served with an appropriate direction to the trial court to proceed to consider the application for temporary injunction.

9. It is, therefore, directed that, provided there is no legal impediment, the trial court would proceed to consider the application 6C after ensuring that all the defendants are duly served with notice and they have opportunity to file their objections and are provided an opportunity of hearing.

10. This petition is, accordingly, **disposed of**.

Order Date :- 9.11.2023

K.K.Tiwari

(Jayant Banerji, J.)