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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11045 OF 2015

Mumbai Kamgar Kranti Sanghathana ...Petitioner

VS

M/s. Kanta Flavouring Industries and Anr. ...Respondents

.....

Mr. Vasant Janardan Ambekar, for the Petitioner.

Mr. V.P. Vaidya, i/b. M.M. Agavekar, for Respondent Nos. 1 and 2.

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CORAM : S.C. GUPTE, J.

DATED: MARCH 21, 2016

P.C. :

. The petition challenges an order passed by the Industrial Court on a complaint filed by the Petitioner Union under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (MULP Act), being Complaint (ULP) No.110 of 2009. The complainant had alleged unfair labour practices falling within Item 6 of Schedule II and Item 9 of Schedule IV of the MULP Act. What was alleged before the Court was that there was a lock-out order by the first Respondent Company by its notice dated 21 February 2009. The notice of 21 February 2009 is of closure of the Company and not a lock-out. The notice makes it clear that the decision was to close down the manufacturing activity permanently with effect from 23 February 2009. The workmen of the first Respondent Company, whom the Petitioner claims to represent, were offered legal dues, including closure

compensation payable as a result of such closure. Learned Counsel for the Petitioner submitted that though the closure notice was issued on 21 February 2009, declaring closure with effect from 23 February 2009, the first Respondent Company actually continued its manufacturing activity and did not allow the workmen represented by the Petitioner to attend the work. The complaint itself does not disclose any such pleadings on the complaint as it stands. The Industrial Court was justified in holding that what was announced by the notice of 21 February 2009 was a closure and not a lock-out to prevent the present employees from getting the benefits of general demands. The Industrial Court was perfectly justified in holding that, in absence of the pleadings, the complainant could not be permitted to lead evidence to show that business activity was actually being continued in the manufacturing unit of the first Respondent Company. Based on the material available before the Court, the Court rightly came to the conclusion that neither Item 6 of Schedule II nor Item 9 of Schedule IV of the Mulp Act was attracted in the matter. The conclusion drawn by the Industrial Court does not suffer from any error. Accordingly, there is no merit in the petition and the same is dismissed.

(S.C. GUPTE, J.)