

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(PD)No.1871 of 2012
and
M.P.Nos.1 and 2 of 2012**

United Labour Federation
Regd. No.2657/CNI
Rep. by its President Mr.T.V.Pramasivam
Having its Office at No.149,
Thambu Chetty Street,
C.J.Complex, 4th Floor, Chennai-1.

.. Petitioner

Vs.

Les Ateliers de Pondicherry Pvt. Ltd.,
A Unit of M/s.Leather Crafts India Ltd.,
No.15/7, Vazhudavoor Road,
Karumbapet, Puducherry.

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 10.04.2012 made in I.A.No.779 of 2012 in O.S.No.408 of 2012, on the file of the learned III Additional District Munsif, Puducherry.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalaikannu

For Respondent : M/s.L.Maithili

ORDER

The case of the revision petitioner Labour Federation is that the respondent company namely Les Ateliers de Pondicherry Private Limited originally was established and owned by a French MNC, managed by French Expatriates. The said company had two units, one at Kurumbapet, Puducherry and another at Perabai Tamilnadu. However, due to persistent labour problems and the increased cost of production, the French MNC decided to sell the company to an Indian Company. Accordingly it was sold to Leather Crafts India Limited. Thereupon the present company agreed to take over the company as running unit including all staffs and worker. In this regard an agreement was entered between the previous and the present management. However, the respondent herein threatened the labours with unemployment. Further the workmen were paid with inadequate wages. Thus the labours were adversely affected and they were upset due to the illegal and unlawful activities of the respondent. While so, the respondent company attempted to remove the machineries including the generators from the factory premise.

2. Whereupon the workers conducted a peaceful demonstration on such attempt to remove of machineries, for which the respondent

company sought for police aid to transit the machineries from the factory premise. Hence the revision petitioners federation filed a writ petition in W.P.No.6189 of 2012 before this Court, wherein an injunction was granted restraining the police authorities from illegally aiding the respondent company from removing and shifting the machineries. However, the respondent company suppressing the above said injunction order granted by this Court, has come up with the above suit, praying for a permanent prohibitory injunction forbearing the revision petitioner trade federation from conducting demonstration and strikes, further restraining the revision petitioner federation from interfering with the ingress and egress of the employees or vehicle or customers or their agents having access into the factory. In the said suit the respondent company has also filed the above said I.A. under Order XXXIX Rule 1 and 2 r/w 151 CPC praying for an ex-parte ad Interim injunction order against the revision petitioner federation from conducting demonstration or strike within a radius of 300 meters from the factory entrance and there is also a prayer restraining the revision petitioner trade federation from interfering with the ingress or egress in the factory. Though the revision petitioner federation never involved in any illegal strike or never involved in interfering with the ingress or egress of the factory, the above said suit and I.A. came to be filed with malice intention to

get an order of injunction and thereby to transit / shift the machineries out of the factory premise. However, the Learned Trial Judge without appreciation of facts and law has erroneously allowed the respondent companies injunction petition. The said order of the Trial Court is impugned herein.

3.I heard Mr.V.Prakash, learned senior counsel for Mr.K.Sudalaikannu, learned counsel appearing for the petitioner and M/s.L.Maithili, learned counsel appearing for the respondent and perused the records.

4.The learned counsel for the petitioner submitted that the interlocutory application of the respondent ought to have been dismissed, since it has been filed suppressing the order of injunction passed by this Court in W.P.No.6189 of 2012 only to overcome the said order of injunction, the respondent company has filed such suit, which is impermissible under law. The malice intention behind this suit is to illegally transit machineries out of the factory. The original dispute between the respondent company and the petitioner federation is regarding to inadequate wages, whereas using the same the respondent company if any attends to illegally shift the machines. The machines cannot be removed from the factory premises, since it

is the subject issue of the conciliation proceedings as well as the writ proceeding. The illegal act of the petitioner management removing good condition in the machines has resulted in the unrest of the workers. Always the revision petitioner federation resorted only democratic ways and lawful ways to demonstrate their objection by peaceful means.

5.Per contra, the Learned Counsel for the respondent submitted that it was also resolved by both companies that the former company shall shift shoe unit machineries back to France in a phased manner and the workers employed in shoe will be absorbed in the leather goods division and none of the workers will be absorbed in the leather goods division and none of the workers will be retrenched.

6.Accordingly when the company was about to transit the shoe unit machineries, the workers conducted illegal strikes for more than 6 days. The said strike was conducted on the illegal advice and guidance of the respondent federation. In the meantime there was a conciliation proceedings in which under section 12(3), a settlement was arrived between the management and the workers. In the said conciliation proceedings, when a notice dated 23.02.2012 stood issued, the workers on 29.02.2012, resorted a sudden illegal flash

strike without any notice to the management. The 3rd parties who are not the workers of the factories are barging inside the factories without the permission of the company. The revision petitioner federation has no right to remain in factory premises and do the stay in strike or sit in strike after the working hours, it amounts to criminal trespass and they are not entitled to prevent the men and machineries inside the factories and outside the factories. Only due to the said illegal act of the revision petitioner federation, the above said suit came to be filed and the corresponding I.A. for interim injunction was rightly order by the Trial Court. Therefore the revision petition is liable to be dismissed.

7. On perusal of the typed set of papers and all the relevant records pertaining to the above said I.A.No.779 of 2012, it is obvious that the dispute prevailing between the revision petitioner and the respondent is in respect of the transit of machineries. The revision petitioner federation do not want the machines to be shifted, whereas the respondent company wants to shift. At this juncture it is noticeable that the respondent company has undertook before this Court the machines will not be removed from the factory premises till the W.P.No.6189 of 2012 is decided on merits. Thus this Court finds

that the fear of the revision is unwarranted, since a specific undertaking is given by the respondent that the machine will not be shifted.

8. In so far as the issue as to whether the members of workmen union can involve in sit in strike or involve in stay in strike beyond the work hours, within the factory premises, this Court in the case of ***Cheipark, Company Ltd. v. Commissioner of Police and others*** reported in **(1968) 1 MLJ 458**, has held vide para 41 as follows:

“The striking workers remaining after working hours in the factory premises committed the offence of criminal trespass and formed themselves into an unlawful assembly”. Further it was held “Either before or after the working hours, the workers have no right to occupy the property of the employer. The employees can stay and strike only during working hours when they can stay and work. After the closing hours the employer is entitled to close the factory and make arrangements for the protection of his property. The act of the workmen remaining in the factory premises after working hours is unlawful and will amount to trespass.”

9. In the case on hand, the notice, pamphlet and the photographs pertaining to the strike conducted in the respondent company discloses that the strike has prevailed and continued beyond 30 days as a stay in strike within the factory premises. It is needless to say the above said act of the workman going on a strike without issuing any notice to the management, in contrary to the statutory requirement is illegal and information.

10. In view of the above said decision of this Court and considering the facts of the case, this Court finds no illegality or material irregularity with the order of the Trial Court granting interim injunction.

11. In the result:

(a) this Civil Revision Petition is dismissed by confirming the order in I.A.No.779 of 2012 in O.S.No.408 of 2012, dated 10.04.2012, on the file of the learned III Additional District Munsif, Puducherry;

(b) the trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

27.01.2017

Note: Issue order copy on 24.05.2017
Internet: Yes
Index: Yes

vs

To

The III Additional District Munsif,
Puducherry.

M.V.MURALIDARAN, J.

VS

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