

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice N.ANAND VENKATESH

O.S.A.No.333 of 2017

1.All India Ponds Employees Nalasangam,
No.577, Munivel Street, Kakkanji Nagar,
Vysarpadi, Chennai - 39.

2.K.J.Mohan Kumar, Chairman,
All India Ponds Employees Nalasangam,
No.13, Raju Street, West Mambalam,
Chennai - 33.

3.J.C.Sebastian, General Secretary,
All India Ponds Employees Nalasangam,
No.2/119, 3rd Street, Netaji Nagar,
Lakshmi Nagar, West Mudichur,
Mannivakkam, Kanchipuram - 600 048. .. Appellants

Vs

M/s.Hindustan Unilever Limited
rep. by its Manager and Power of Attorney
Agent/Authorised Signatory
Saif Jamali .. Respondent

Appeal preferred under Order XXXVI Rule 9 of O.S. Rules r/w
Clause 15 of Letters Patent against the order and decretal order
dated 09.08.2017 made in O.A.No.129 of 2016 in C.S.No.116 of
2016.

For Appellants .. Mr.S.Sridhar

For Respondent .. Mr.Krishna Srinivasan
for M/s.Ramalingam and Associates

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The appellants are the defendants in the suit. The respondent being the plaintiff filed a suit for bare injunction. Pending the suit, injunction was sought for restraining the appellants from interfering with the ingress and egress, not to prevent the respondent from doing his business and to indulge in unlawful demonstration before the office premises. Upon hearing the submissions of the parties, interim injunction granted earlier was made absolute and accordingly, the said application was allowed. Challenging the same, the present appeal has been filed.

2.Mr.S.Sridhar, learned counsel appearing for the appellants would submit that the respondent has acted contrary to the undertaking given while giving voluntary resignation. The benefits of the Trust have not been extended to the appellants who are the retired employees pursuant to the implementation of voluntary retirement scheme. Right to conduct demonstration is a vested one and therefore the same cannot be denied. On a query, learned counsel would fairly submit that the ingress and egress to the working place of the respondent will never be disturbed and no demonstration would take place in front of the office premises. Learned counsel would further submit that the appellants be permitted to have demonstration after getting permission from the competent authority including the police personnel. Incidentally, it is submitted that the respondent may be directed to extend atleast medical facilities as agreed upon under the voluntary retirement scheme.

3.By way of reply, learned counsel appearing for the respondent would submit that the issue involved on the entitlement is no longer res integra as decided already by the Division Bench in O.S.A.No.181 of 2004 dated 18.08.2008. While demonstration can be adopted, the same cannot be permitted to affect the rights of the respondent. The appellants have already initiated action under the Payment of Wages Act, which is still pending consideration. Hence there is no interference required on the findings rendered by the learned single Judge while granting the order of injunction.

4.As rightly submitted by the learned counsel appearing for the appellants, right to peaceful demonstration can never be prevented. However, such a demonstration cannot be construed to mean to affect the rights of the employer in doing its own legal and lawful activities. Now, the learned counsel appearing for the appellants has fairly submitted that the ingress and egress to the work place of the respondent will not be prevented and

there will not be any demonstration in front of the office premises. The said statement stands recorded. Thus the only other issue is with respect to the manner in which the demonstration is to be conducted. This, we are of the view, cannot be qualified by us. Once it is held that right to demonstration is something which is vested, the manner in which it has to be done is lawful or not is something for the authorities to decide. As long as the same is permissible in law, the appellants are at liberty to do so without affecting the rights of the respondent. However, such a demonstration can only be held after getting appropriate permission from the authorities concerned.

5. With the abovesaid observation, this appeal stands disposed of, making it clear that the appellants shall not interfere with the ingress and egress of the respondent to reach the office premises and there shall not be any demonstration also in front of the office premises. However, the appellants can always have the lawful demonstration in accordance with law. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.S.Sridhar, Advocate sr.no.36121

+1cc to M/s.Ramalingam and Associates, Advocate sr.no.36664

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O.S.A.No.333 of 2017

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