

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 242 of 2007**

Vrihattakar Seva Sahkari Samiti Maryadit Padumtara, Registration No. 950,
Tahsil and District Rajnandgaon (C.G.), Through : Its President, Ramkumar
Verma, aged about 51 years, Son of Shri Kumbhlal Verma (Lodhi)

----Appellant/plaintiff

Versus

Angar Kishore Mahobiya, son of Shriram Mahobiya, Resident of Jai Maa Kali
Chowk, Baraipara Durg, District Durg (C.G.)

---- Respondent/defendant

For Appellant	: Shri P.K.C. Tiwari, Sr. Advocate with Shri Ashutosh Trivedi, Advocate.
For Respondent	: Shri Akash Pandey, PL

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/07/2019

(1) Heard on the question of admission and formulation of substantial question of law on this second appeal preferred by plaintiff under Section 100 of the Code of Civil Procedure, 1908.

(2) The appellant herein is a cooperative society registered under the provisions of Madhya Pradesh/Chhattisgarh Cooperative Societies Act, 1960 (henceforth "Act, 1960"). The respondent/defendant herein was terminated from the services on 13.06.1996, against which, a reference was made to the Labour Court. The Labour Court on 23.12.2002 passed an ex parte award reinstating the respondent/defendant in service, against which civil suit was filed stating that the *ex parte* award is illegal and not binding as there is complete remedy provided in favour of the respondent under the provisions of Act, 1960,

which was not accepted by the trial Court as well as by first appellate Court in view of the provisions contained in Section 17(2) of The Industrial Disputes Act, 1947 (henceforth "ID Act, 1947") held that award passed under Section 17(2) of the ID Act, 1947 is final and shall not be called in question by any court in any manner whatsoever, therefore, jurisdiction of the civil court is barred.

(3) Mr. PKC Tiwari, learned Senior Counsel appearing for the appellant/plaintiff would submit that both the courts below have concurrently erred in holding that jurisdiction of the civil court is barred and that give rise a substantial question of law for determination in this appeal.

(4) I have heard learned counsel appearing for the appellant and perused the records of both the courts below with utmost circumspection.

(5) Ex parte award was passed on 23.12.2002 against the appellant/Society, which is registered under the provisions of the Act, 1960, though the plaintiff has branded the order of Labour Court as without jurisdiction but nothing has been brought on record to demonstrate that order is without jurisdiction.

(6) Section 17(2) of the Industrial Disputes Act, 1947 states as under :-

"17. Publication of reports and awards.- (1) Publication of reports and awards.

(1) xxx xxx xxx

(2) Subject to the provisions of Section 17A, the award published under sub- section (1) shall be final and shall not be called in question by any Court in any manner whatsoever.

(7) Section 17 (2) of the Act, 1947 provides finality of award passed by the Industrial Tribunal, which shall not be called in question by any Court in any manner whatsoever. Jurisdiction of civil Court to entertain a suit in respect of an adjudication made by a Tribunal

is not barred if it is shown that the award or adjudication was wholly without jurisdiction or was founded on a reference made outside the provisions of the statute.

(8) The appellant has failed to demonstrate before the two courts below that the Labour Court, who has granted ex parte award in favour of defendant/employee, was having no jurisdiction to hear the reference, as such, I do not find any illegality or perversity in the finding recorded by the two courts below holding that jurisdiction of the Civil Court is barred by provisions contained in Section 17(2) of the ID Act, 1947 being based on material available on record and no substantial question of law is involved in this appeal.

(9) Consequently, the second appeal, being devoid of merit, is liable to be and is hereby dismissed at the admission stage itself.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

