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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EX.F.A. 10/2019, CM APPL No.13327/2019

SAHARA INDIA COMMERCIAL CORPORATION LTD

..... Appellant

Through : Mr.Anil Sharma and Ms.Neha Gupta,
Advocates

versus

AWADHESH KUMAR MISHRA

..... Respondent

Through : Mr.Chandra Shekhar and Mr.Varun
Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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11.07.2019

This appeal is against the impugned order dated 22.12.2018 passed by the learned executing court whereby the objections raised by the appellant herein were dismissed vide the impugned judgment dated 22.12.2018. The dispute raised before me in this appeal by the learned counsel for the appellant is the court which passed the decree dated 28.08.2015 acted beyond jurisdiction. It is alleged the civil court had no jurisdiction to entertain the suit for declaration, mandatory injunction and for recovery of amount of ₹ 1,19,620/- as the respondent was employed as a *working journalist* and per Section 3 of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 - the Act 14 of 1947, Industrial Disputes Act, 1947 shall be applicable to service disputes qua working journalist.

It is submitted by learned counsel for the appellant irrespective of the fact the civil court had passed the judgment and decree dated 28.08.2015 but as the Civil Court lacked jurisdiction, the same

objection can still be raised before the executing court and cited *Chief Engineer Hydel Project &Ors. Vs. Ravinder Nath &Ors.* (2008) 2 SCC 350. There is no doubt about the provision of law. However, to find out as to if the court lacked jurisdiction in the present case one needs to see if the respondent was covered within the definition of *working journalist* viz. section 2(f) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 which is as under :

(f) “working journalist” means a person whose principal avocation is that of a journalist and who is employed as such, either whole-time or part-time, in , or in relation to, one or more newspaper establishments, and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who-
(i) is employed mainly in a managerial or administrative capacity, or
(ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

A bare perusal of the definition would show a person to be a working journalist, his principal avocation must be of a journalist and who he employed as such, either whole-time or part-time, in , or in relation to, one or more newspaper establishments, and includes an editor but excludes a person in *managerial* or *administrative* capacity.

Admittedly, the appointment letter dated 29.09.2007 describes the job of the respondent as *Executive* at S.I.T.V. Network (Urdu T.V.Channel), Noida. Even the nature of the services to be rendered by the respondent are not described in the appointment letter, hence it was essential for the appellant herein to prove the nature of services

rendered by the respondent, fall under section 2(f) (supra), which it failed. The learned trial court having gone through the evidence rather came to the conclusion that the respondent is not a working journalist per definition under section 2(f) of the Working Journalist and other Newspaper Employees (Conditions of service) and Miscellaneous Provisions Act, 1955 read with Industrial Disputes Act, 1947. The same view is taken of the learned executing court in the impugned order as below:

“ Section 2(f) "working journalist" means a person whose principal avocation is that of a journalist and [who is employed as such, either whole-time or part-time, in, or in relation to, one or more newspaper establishments}, and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who-

(I) is employed mainly in a managerial or administrative capacity, or .

(II) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature."

As per impugned judgment dated 28.08.2015, the defendant no.1/JD1 objector has admitted in its pleadings that plaintiff/DH was appointed as an executive in defendant no. 1 company. The relevant portion of the said judgment is quoted as under:-

" 12. It is an admitted position that the plaintiff was appointed by defendant no. 1 company as executive. The date of appointment, the date of confirmation, the period of probation and the post on which the plaintiff was appointed have not been disputed "

Thus, as per the aforementioned definition of "Working Journalist" the plaintiff/DH is excepted from its ambit. Further, no document or evidence has been placed on record by the objector to counter its aforesaid admission in the pleadings. Thus, Industrial Disputes Act, 1947 does not expressly or impliedly bars the jurisdiction of the civil court to adjudicate upon the dispute between the plaintiff and the defendant. As per Section 9 CPC, the courts have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred. Admittedly, the dispute in the said suit was of civil nature. In absence of any express or implied bar by any statute including

Industrial Disputes Act, 1947, there is no reason to conclude that the court passing the present decree lacked the inherent jurisdiction to try and decide the said case. Hence, the objections raised by the JD that the present decree is null or void for being passed by the court lacking jurisdiction are not sustainable. Accordingly, all the objections of the JD are dismissed.”

I have gone through the impugned order as well as the appointment letter and relevant Sections of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 there is no reason why I should differ from the impugned order. The appeal has no merit and is dismissed with no order as to costs. Pending applications, if any, is also dismissed.

YOGESH KHANNA, J.

JULY 11, 2019

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