

Girdhari Bhivasanrao Thormal

....Complainant

Versus

The Maharashtra State Co-Operative and OrsRespondents

ORDER BELOW EXHIBIT C-8

(Passed on 26/10/2023)

1. The respondent No. 3 is praying for framing of preliminary issues as regard to the tenability of the complaint and to dismiss the complaint against respondent No. 3 as barred by limitation and failure of complainant to show that he is workman. It has been submitted that the Debt Recovery Tribunal has directed the respondent bank to deposit the balance amount of the sale proceeds. It has been also submitted that the respondent No. 3 purchased the property from the bank and therefore the services of the employees stand terminated. It is the bank who has to repay the amount to the complainant. The respondent No. 3 has already sold the property to the Arjun Industries. In the circumstances, it has been submitted that the preliminary issue be framed and the complaint be dismissed against the respondent No. 3.
2. The complainant opposed the application submitting that the other cases of same nature are decided and the reliefs have been granted to the employees. The application is filed to delay the matter. Therefore, he has prayed for the rejection of the application.
3. Heard and perused the papers of the case.
4. In the present case, the complainant has submitted that he was employee of the sugar factory and he has not been paid his wages. Now, this is the issue to be decided by the court. The sugar factory has been sold by the bank to the respondent No. 3. The respondent No. 3 by relying upon the decision in cases of *(2001) 2 SCC 381 Vividh Kamgar Sabha V/s Kalyani Stells Ltd. And Another*, *(2001) 3 SCC 101 Cipla Ltd. V/s Maharashtra Kamgar Union & Another*, *(2003) 10 SCC 445*

Sarva Shramik Sangh V/s Indian Smelting and Refining Co. Ltd. And Another, 2002 (2) L.L.N. 88 Sandvik India, Ltd. V/s Secretary, Pune Mazdoor Sabha, and Others submitted that the complainant is not employee. The decisions in said cases are not applicable to the facts of the present case as in the cited cases the employees were contractual. Whereas in the present case, the respondent No. 3 has not denied the status of the employee but its contention is that as a auction purchaser, there is no employer employee relationship. Hence, the said authorities will not help the case of the respondent No. 3.

5. At this stage, there are pleadings of the complainant to show that the respondent No. 3 has stepped in the shoes of the sugar factory. Now, it will be a matter of trial whether the respondent No. 3 is liable to pay the back wages to the complainant or not. The respondent No. 3 is a necessary party as it has purchased the property and there are agreements between the parties. The issue about the liability of the respondent Bank has been decided by the Hon'ble High Court and is further sub-judice for deciding the issues about liability, the trial is necessary and all the issues need to be decided. The complaint cannot be dismissed at this stage against the respondent No. 3. The issue about the payments of the labour is involved and it cannot be scuttled at threshold. The subsequent purchaser from respondent No. 3, is a party. In the circumstances, the application is liable to be rejected. Consequently, I pass following order.

ORDER

- 1) The application at exhibit C-8 is rejected.

Jalna
Date 26/10/2023

(Bharati Kale)
Member
Industrial Court, Jalna