

ORDER BELOW EX.C-8 IN COMPLAINT ULP NO. 84/2017

Vinod Narayan Ingale
VS
Varroc Polymers Pvt Ltd.,

1 The respondent has filed this application submitting that as the complainant has filed the Complaint U/s. 28 of MRTU & PULP Act,1971 before the Hon'ble Industrial Court Aurangabad bearing Complaint (ULP) No. 270/2017, therefore, the present complaint is subsequent complaint and to avoid the multiplicity of litigation, the present Complaint (ULP) is deserves to be stayed under section 10 of Code of Civil Procedure.

2 The Complainant filed his Say and thereby submits that in Complaint (ULP) No. 270/2017 filed before the Hon'ble Industrial Court Aurangabad, the issue of illegal termination is not the subject matter of the said complaint. The respondent company has subsequently terminated the services of complainant, therefore, the Complainant has challenged the termination order before this Court. Therefore, 'cause of action' in both the cases are different. Hence, the application is liable to be rejected.

3 Heard both the parties. Perused the entire record. On perusal of Complaint (ULP) No. 84/17 the prayer clause of the complaint that the respondents have engaged in unfair labour practices as prescribed under Item 1 a, b, d, f, & g of Sch.IV of the MRTU & PULP Act, 1971. He also prayed that the termination order dtd. 04/09/2017 issued to the complainant by the respondent is to be declared as illegal, and he may be reinstated in service with continuity.

4 The complainant has filed the certified copy of Complaint (ULP) No. 270/2017 filed before the Hon'ble Industrial Court Aurangabad, wherein, the complainant has challenged the service condition and terms of contract and not to interfere in formation of statutory Trade Union.

5 On perusal of these Complaints, it shows that the Complainant has filed Complaint (ULP) No. 270/2017 is U/s. 28 r.w. Section 26 under Items 2,3,5,9 of Sch.II & Sch.IV of Items 2,3,5,9 & 10 of MRTU & PULP Act,1971. The present Complaint is filed under section 28 r.w. Section 26 under Item 1 a, b, d, f, & g of Sch.IV of the MRTU & PULP Act, 1971. Hence, from the pleadings of both these complaints, the complainant has claimed the different reliefs under the different Items of MRTU & PULP Act.

As per Section 10 of C.P.C. reproduced as under:

10. Stay of suit.

No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in having jurisdiction to grant the relief claimed, or in any Court beyond the limits of established or continued by [the Central Government] and having like jurisdiction, or before [the Supreme Court].

Explanation- The pendency of a suit in a foreign Court does not preclude the Courts in from trying a suit founded on the same cause of action.

6 As per Section 10 of Code of Civil Procedure when matter in issue directly and subsequently in issue in a previously instituted suit between the same parties then subsequent suit may be stayed but on perusal of both the complaints, the issue in both the complaints are

different and are not same as described under Section 10 of Code of Civil Procedure. As the respondent has terminated the services of the complainant after filing the Complaint (ULP) No. 270/2017, thereafter, the Complainant has challenged their termination order in the present Complaint. Hence, cause of actions and issue in both the complaints are different. Hence, there is no need to stay the present proceeding. Hence, the application stands rejected.

Sd/-
(D.V.Joshi)
Judge,
Labour Court-1, Aurangabad.

Dtd. 16/04/2019

LABOUR COURT AURANGABAD