



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI
&
HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI
WRIT APPEAL No. 2137 of 2024
MANJEET GLOBAL PRIVATE LIMITED
Versus
THE STATE OF MADHYA PRADESH AND OTHERS
WITH
WRIT APPEAL No. 2138 of 2024
MANJEET COTTON PRIVATE LTD
Versus
THE STATE OF MADHYA PRADESH AND OTHERS**

Appearance:

Shri Satish Chandra Bagadiya – Senior Advocate with Shri Rohit Saboo – Advocate for the appellants in both the appeals.

***Reserved on : 20.09.2024.
Pronounced on : 25.10.2024***

ORDER

Per: Justice Sushrut Arvind Dharmadhikari

Regard being had to the similitude of the issue to be considered originate from the same cause of action, these cases are taken together and heard analogously and decided by this common order. For the sake of convenience, facts as narrated in W.A.No.2137/2024 and W.P.No.12579/2024 are being considered for the purpose of deciding both the appeals.



2. These writ appeals under Section 2(1) of the Madhya Pradesh Uchha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 have been filed assailing the order dated 13.09.2024 passed by learned Single Judge in W.P.No.12286/2024 and W.P.No.12579/2024; whereby both the writ petitions have been dismissed.

3. The brief facts of the case are that the appellants had filed aforesaid writ petitions under Article 226 of the Constitution of India challenging order dated 04.03.2024 passed in Case No.167/7/teen/21 by the Labour Commissioner, M.P.; whereby a reference has been made to the effect as to whether the transfer made by Century Yarn and Century Denum Unit in favour of Manjit Golbal Pvt.Ltd. And Manjit Cotton Pvt. Ltd and a consequence payment of compensation under Section 25-FF of the Industrial Disputes Act, 1947 (for short ID Act) by the concerned unit to the members of respondents No.3/Union is legal and valid ? If not then Labours are entitled for which relief ? And in this regard what directions can be issued to the employer ?

4. The appellants before the learned Single Judge contended that they are not aggrieved by the order of reference so far as it relates to between the respondent No.2 and 3, however, making them also part of the reference is not permissible since the appellants were not party to the earlier proceedings and as the petitioners/appellants purchased the respondent No.2 unit on 15.07.2021, the appellant came into picture. Since the labours of respondent No.3 unit were never employees of the appellants/industry, therefore, no liability can be fastened regarding payment of compensation to them.

5. While deciding the writ petitions, learned single judge referred to various provisions of the ID Act and came the conclusion that :

“In view of the aforesaid, there is no merit in the contention of the petitioner that he could not have been made party by the Labour Court by issuing notices. The Labour Court is possessed with the power to issue notice to any establishment, group or



class of group which is not party to the reference. The Tribunal too considered the petitioner Unit to be a necessary party for adjudicating the dispute. To appreciate the aforesaid contention, it is apt to refer the decision passed by the Apex Court in the case of ***Globe Ground India Employees Union vs Lufthansa German Airlines reported in (2019) 15 SCC 273*** relevant para of the judgment read as under :-

“10. Whenever, an application is filed in the adjudication proceedings, either before the Industrial Tribunal in a reference made under the Industrial Disputes Act, 1947 or any other legal proceedings, for impleadment of a party who is not a party to the proceedings, what is required to be considered is whether such party which is sought to be impleaded is either necessary or proper party to decide the lis. The expressions “necessary” or “proper” parties have been considered time and again and explained in several decisions. The two expressions have separate and different connotations. It is fairly well settled that necessary party, is one without whom no order can be made effectively. Similarly, a proper party is one in whose absence an effective order can be made but whose presence is necessary for complete and final decision on the question involved in the proceedings.

14. There cannot be any second opinion on the ratio decided in the aforesaid cases relied on by the learned Senior Counsel for the appellants. But, whenever an application is filed for impleadment of a third party, who is not a party to the reference under the Industrial Disputes Act or any other proceedings pending before the Court, what is required to be considered is whether such party is either necessary or proper party to decide the lis. It all depends on the facts of each case; the allegations made and the nature of adjudication proceedings, etc. In this case it is to be noted that only the scope of reference is limited which is already discussed above. However, it is also clear from Section 10(4) of the Industrial Disputes Act, 1947 that whenever a reference is made, the Industrial Court shall confine its adjudication to the point of reference and matters incidental thereto only.”

16. After reference order, the matter has already been taken up by the MP Industrial Tribunal and the same has been registered as case No.11-ID/2024. In pursuant to the notice by the Tribunal, the



petitioner has already appeared before the Tribunal through an advocate.

17. I do not find any merit in the contention of the learned counsel for the petitioner that without there being any conciliation proceedings, the reference could not have been made because in the present case, reference has been made as per the direction of the writ court, affirmed by the Division Bench and the Supreme Court. The petitioner has already appeared before the Tribunal and the petitioner can raise all the objections and contentions that he is not an employer of the members of respondent no.3 and as per the condition of the sale deed he is not liable to pay any compensation to the members of respondent no.3 unit.

18. In view of the aforesaid, this court does not find any merit in the writ petition. Accordingly, the present petition stands dismissed.

19. However, it would be open for the petitioner to raise all the contentions before the Tribunal which would be decided by the Tribunal without being influenced by any observation made by this Court. By order dated 08.05.2024, the proceedings of the Tribunal was stayed by this Court. Since the petition is dismissed and considering the aforesaid fact that proceedings remained pending because of interim order passed by this Court, it is observed that the Tribunal shall take up the matter on the top priority and conclude the same expeditiously.”

6. Learned Single Judge dismissed the writ petitions on the ground that the Labour Court possessed the power to issue notice to any establishment, group or class of group which is not party to the reference in the light of *Globe Ground India Employees Union (supra)*. Since reference has been made in earlier round of litigation which is registered as 11/ID/2024 and looking to the fact that the rights of large number of employees is at stake, it is always appropriate to implead the subsequent purchaser as party since had already taken over the assets and liabilities of the company, therefore, the appellants



cannot raise a plea that since they came subsequently into picture, no relief can be claimed against them.

7. Learned Single Judge has rightly come to the conclusion that the Labour Court is possessed with the power to issue notice to a party which may not be a party to the reference. In any case the right of the parties would be decided in reference on merits after recording the evidence and taking into consideration the material available on record.

8. In view of the aforesaid, the learned Single Judge has not committed any error in passing the impugned order warranting interference.

9. Both the appeals being bereft of merits are hereby dismissed at the admission stage itself.

(SUSHRUT ARVIND DHARMADHIKARI)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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