

SUPREME COURT OF INDIA

General Manager, Pench Area, Parasia, M.P.

Vs.

Barkan @ Kanhaiya

(Dr. Arijit Pasayat and P. Sathasivam JJ.)

13.12.2007

JUDGMENT:

Dr. ARIJIT PASAYAT, J.

1. Challenge in this appeal is to the order passed by a learned Single Judge of the Madhya Pradesh High Court at Jabalpur Bench dismissing the appeal filed by the appellants.

2. Background facts in a nutshell are as follows:

Respondent filed a suit for specific performance of the contract of employment. According to the appellants, his lands were acquired for the purpose of construction of quarters for the employees.

2. Sale-deed was executed in respect of the land and there was specific provision in a preceding agreement that four persons were to be given employment. Allegation was that only three had been provided employment and in spite of assurance the defendants did not give the job to the plaintiffs.

3. Stand of the defendants was that the suit was not maintainable. In fact, four persons have been given employment. The Trial Court and the First Appellate Court accepted the position that three persons had been given jobs but held that no job was provided to the appellant. The Trial Court noticed that even though it was contended by the present appellants that one son of the plaintiff had been given a job, no document in that regard had been filed. The First Appellate Court and the High Court were of the same view.

4. The High Court held that the stand of the appellant that in view of Section 14 of the Specific Relief Act, 1963, suit for specific performance is not maintainable and is subject to certain exceptions. It was held that since there was a solemn promise to employ four persons the appellants should not be permitted to wriggle out the promise by taking the plea that Section 14 of the Act bars a suit of the nature filed.

5. By order dated March 31, 2000, this Court had permitted the appellants to file documents to show that the son of the respondent no.1 had been given appointment on his nomination. The same has been filed. Though this document was not part of the records of the Courts below, but other evidence was available to show that, in fact, son of respondent no.1 named Guntoo was appointed at the request of respondent no.1. The document placed on record by the appellant pursuant to the order of this Court also clearly establishes this fact.

6. In that view of the matter the suit filed by respondent no.1 deserves to be dismissed and the orders of the Trial Court, First Appellate Court and the High Court in the Second Appeal deserve to be set aside which we direct.

7. The appeal is allowed to the aforesaid extent. No costs.