

M/S Kutty Hassan Kutty And Company vs Esi Corporation on 29 January, 2020

Bench: Indira Banerjee, S. Ravindra Bhat

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7699/2009

M/S KUTTY HASSAN KUTTY AND COMPANY

Appellant(s)

VERSUS

ESI CORPORATION

Respondent(s)

O R D E R

This Appeal is against an appellate Judgment and Order dated 5.09.2008 passed by the High Court of Kerala at Ernakulam, whereby the High Court rejected the contention of the appellant that the process carried out at a petrol pump would not be ‘manufacturing process’ or ‘manufacture’ as contemplated under the ESI Act or under the Factories Act.

The issue is now covered by a judgment of this Court in Qazi Noorul, H.H.H.Petrol Pump & Anr. Vs. Deputy Director, Employees’ State Insurance Corporation reported in [2009(15)SCC 30] where this Court held:

“ 7. Section 2(k) sub-clause (ii) of the Factories Act,1948 states that pumping oil is a manufacturing process. Admittedly, the appellant does the work of pumping oil. When we go to a petrol pump for getting petrol or diesel, the petrol or diesel is in a tank and it does not on its own flow from the tank to the pipe and thereafter into the vehicle, but only by means of a pump Reason: by using power.

9. It is well settled that once the statute is clear, the literal rule of interpretation applies, and there is no need to go into the object and intention of the Statute (vide article entitled “A Note on Interpretation of statutes” by Justice Markandey Katju, published in the Journal Section of AIR 2007 SC 22). In the present case, Section 2(14-AA) of the Act states that “manufacturing process” shall have the meaning

assigned to it in the Factories Act, 1948. In the Factories Act, 1948, Section 2(k) of the Act includes pumping oil as a manufacturing process.

10. In our opinion, the only rule of interpretation which applies to the facts of the present case is the literal rule of interpretation, which means that we should go simply by the wording of the statute and nothing else and there is no scope for applying any other rule of interpretation. In our opinion, the language used in Section 2(k)(ii) of the Factories Act, 1948 is clear.

Hence, the Act applies to the appellant and the respondent was right in issuing notice to the appellant for making contribution and interest thereon for the period in question.” In view of the Judgment of this Court in Qazi Noorul, H.H.H.Petrol Pump & Anr. Vs. Deputy Director, Employees’ State Insurance Corporation, we have no option but to dismiss the appeal. Needless to say that all other issues are kept open.

.....J [INDIRA BANERJEE]J [S. RAVINDRA BHAT
] New Delhi;

January 29, 2020

ITEM NO.105

COURT NO.14

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 7699/2009

M/S KUTTY HASSAN KUTTY AND COMPANY

Appellant(s)

VERSUS

ESI CORPORATION

Respondent(s)

Date : 29-01-2020 This appeal was called on for hearing today. CORAM :

HON'BLE MS. JUSTICE INDIRA BANERJEE HON'BLE MR. JUSTICE S.
RAVINDRA BHAT For Appellant(s) Mr.Jayant Muthuraj,Sr.Adv.

Mr. E. M. S. Anam, AOR For Respondent(s) Mr. Sanjeev Anand, AOR Mr.Yakesh
Anand,Adv.

Mr.Nimit Mathur,Adv.

UPON hearing the counsel the Court made the following O R D E R The Appeal is dismissed in terms of the signed order.

Pending application(s), if any, stand disposed of.

(SUSHMA KUMARI BAJAJ) (SUNIL KUMAR RAJVANSI) SENIOR PERSONAL ASSISTANT BRANCH OFFICER (The Signed Order is placed on the file)