

# **Nirchiliya And Ors. vs Management Of Safire Theatre And Anr. on 12 April, 1990**

**Equivalent citations: (1991)ILLJ111SC, AIRONLINE 1990 SC 281**

**Author: Ranganath Misra**

**Bench: Ranganath Misra, M.M. Punchhi**

## **JUDGMENT**

Mr. Ranganath Misra, J.

1. This appeal by certificate from the High Court seeks to challenge the decision of the High Court where it has been held that the appellants as employees under the Madras Shops & Establishments Act, 1941 (Madras Act for short) were not entitled to the benefit of restoration of employment given by the Authority under that Act in view of the fact that the appellants had taken an earlier proceeding under the Industrial Disputes Act but allowed the same to be dismissed for default before the Labour Court. The High Court is of the view that both the Labour Court as also the authority under the Madras Act had jurisdiction to entertain the dispute but appellant., having elected to move the Labour Court, after abandoning the claim before it could not re-agitate their claim before the authority under the Madras Act .

2. We are of the view that once remedy could be worked out in either of the forums, when the proceeding before the Labour Court was not continued, in the absence of any specific bar under either the Madras Act or the Industrial Dispute Act against the alternative forum being moved the jurisdiction of the authority under the Madras Act would not be barred. In the facts and circumstances appearing on the record, we are of the view that the High Court went wrong in holding that there was a lack of jurisdiction in the competent authority under the Madras Act to entertain the dispute. The decision of the High Court is accordingly set aside and the order of the competent authority under the Madras Act is restored.

3. Respondents' Counsel has brought to our notice the fact that some out of the 14 original employees have entered into settlement and, therefore, they would not be entitled to the benefit of the competent authority. We made it clear that the competent authority under the Madras Act should enquire into this aspect, namely, whether following the settlement, the final order made by it requires to be modified appropriately.

4. The Civil Appeal is allowed, the order of the High Court is set aside and that of the competent authority under the Madras Act is restored subject to the direction indicated above. There shall be no order as to costs.