

Gujarat High Court

Union vs M/S on 25 October, 2010

Author: K.M.Thaker,&Nbsp

Gujarat High Court Case Information System

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SCA/12842/2010 3 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL
CIVIL APPLICATION No. 12842 of 2010

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UNION
OF INDIA & 1 - Petitioner(s)

Versus

M/S
PRABHAT HOSPITAL PVT LTD - Respondent(s)

=====

Appearance

:

MR

NIRAL R MEHTA for Petitioner(s) : 1 - 2.

None for Respondent(s) :

1,

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CORAM

:

HONOURABLE

MR.JUSTICE K.M.THAKER

Date

: 25/10/2010
ORAL ORDER

Heard Mr. Mehta, learned advocate for the petitioner-Union of India (Provident Fund Commissioner).

The petition is directed against the proceedings of Regular Civil Suit No.163 of 2010 as well as the order dated 26.07.2010 passed by the learned trial Court below Exh.5 in the said suit whereby the learned trial Court has directed the original defendants i.e. present petitioners to maintain status-quo.

Mr.

Mehta, learned advocate for the petitioners, has submitted that the petitioners had initiated proceedings against the respondent herein i.e. original plaintiff under the provisions of Employees' Provident Fund & Miscellaneous Provisions Act, 1952 {hereinafter referred to as the EPFMP Act } for recovery of dues towards P.F. Contribution and for that purpose, appropriate notice under Section 7(A) for determining the amount of unpaid contribution towards provident fund was issued.

He also submitted that the said notice culminated into an order dated 28.04.2003 passed by the Assistant commissioner. The said order was carried in appeal before the Provident Fund Appellate Tribunal by the original plaintiff. The plaintiff lost before the appellant tribunal as well and the learned tribunal rejected the appeal by order dated 03.05.2010. He further submitted that after conclusion of the aforesaid proceedings, the respondent herein filed the above referred suit.

Mr.

Mehta also submitted that in view of the aforesaid proceedings and the provisions of the EPFMP Act, the suit proceedings itself are not maintainable against the orders passed by the Assistant Commissioner of Provident Fund and the Appellate Tribunal. He submitted that the order passed by the learned trial Court below Exh.5 is, therefore, without jurisdiction.

Having regard to the contentions and provisions under the the EPFMP Act and the fact that the plaintiff has lost in the proceedings before the Commissioner and the Appellate Tribunal, the matter requires consideration hence Rule. Returnable on 6th December, 2010. Notice for interim relief also returnable on 6th December, 2010.

By way of ad-interim relief, it is directed on the condition that before taking any coercive action, the petitioner will give notice of 48 hours to the respondent herein, the operation of the order dated 26.07.2008 as well as the further proceedings of Regular Civil Suit No.163 of 2010 shall remain stayed until next of hearing of present petition.

[K.M.Thaker, J.] kdc Top