

[DNJ/Raj.] 1998 Dewan Syed Ali Rasul Ali Khan vs. Altaf Hussain & Ors.

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authorities were not lacking inherent jurisdiction to decide the issue involved, even if reference had not been made to any statutory provision.

VIII. Any judgment/order to which petitioner temple was not a party cannot be binding on it even if the case was filed to help the present petitioner as the genuineness of the persons, who were claiming to be worshipers etc. cannot be examined as the said persons are not before this Court. It may be a collusive affair with other interested persons.

IX. The Board of Revenue has been clothed with special powers under the provisions of Sec. 232 of the Act of 1955 to examine a case, where the reference is made by the Collector and fraud etc. has been played by a party. There is no period of limitation to make such a reference. This provision is to provide "substantial justice" to the party, which has been cheated. Thus, Board failed to appreciate the issues involved in its correct perspective.

23. For the aforesaid reasons, I set aside the judgment and order of the Board of Revenue Ex. 4 and uphold the judgment of the Revenue Appellate Authority contained in Ex. 3. Therefore, writ petition succeeds and is accordingly allowed with costs.

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1998 DNJ [Raj.] 693

RAJASTHAN HIGH COURT [Jaipur Bench]

(S.B. CIVIL REVISION PETITION NO. 979 of 1993; decided on 27.2.1998)

PRESENT :

HON'BLE MR. JUSTICE ARUN MADAN

Dewan Syed Ali Rasul Ali Khan, Sajada Nashin Khwaja Moinuddin
Chishti Saheb Through Ultradhikari Petitioners
versus

Altaf Hussain & Ors. Respondents

Civil Procedure Code, 1908—Secs. 37(b)—O. 21 Rr. 5, 6 & 8—O. 40 R. 1—Execution of decree—Execution petition filed for the execution of decree passed by A.D.J. of erstwhile state of Ajmer-Merwara—Jurisdiction—Decree executable by District Judge or any Addl. District Judge if entrusted to them by District Judge—District Judge dismissed the execution petition on the ground of lack of jurisdiction—Held, District Judge has committed error & impugned order is set aside & directed to decide the execution petition & A.D.J. appointed as receiver.

[Para 7]

निचित प्रक्रिया संहिता, 1908—धारा 37(ख)—आदेश 21 नियम 5, 6 तथा 8—आदेश 40 नियम 1—डिस्ट्री का निष्पादन तत्कालीन अजमेर-मेरवाड़ा राज्य के अपर जिला न्यायाधीश द्वारा पारित डिस्ट्री के निष्पादन के लिये निष्पादन याचिका पेश की—अधिकारिता—डिस्ट्री जिला न्यायाधीश द्वारा अथवा अन्य अपर जिला न्यायाधीश द्वारा, यदि उन्हे जिला न्यायाधीश द्वारा भेजी जाती है, निष्पादनीय है—जिला न्यायाधीश द्वारा अधिकारिता के अभाव में निष्पादन याचिका खारिज की—अभिनिर्धारित, जिला न्यायाधीश ने जूटि की है एवं आदेश अपास्त किया तथा निष्पादन याचिका निर्णीत करने का निर्देश दिया तथा ए.डी.जे. को रसीदर नियुक्त किया गया ।

Revision allowed

पुनरीक्षण स्वीकार ।

Case referred

Smt. Laxmi Nagappa Hegde vs. The Karnataka Bank Ltd., Sirsi & Ors., AIR 1988 Karnataka 44

Counsel appeared

Mr. Vinendra Dangl, for the petitioner

Mr. B.P. Agrawal, Advocate General with Mr. J.M. Jain, for the respondents

BY THE COURT.—This revision petition has been preferred against the order dated 23.2.1993 (impugned) passed by the then District Judge, Ajmer in Civil Execution No. 11/1991 in respect of execution of decree dated 3.5.1933 passed in Civil Suit No. 9/1929 obtained by the petitioner decree holder against the non-petitioners-judgment debtor-defendants. The said suit was filed by the father of the petitioner Dewan Syed Ali Rasul Ali Khan for the relief of permanent perpetual injunction in respect of determination of the rights of Dewan as regards the offerings made by the pilgrims of the Dargaha Sharif, Ajmer of Khawaja Moinuddin Chisti Sahab as regards entitlement of the petitioner to receive offerings made to the holy shrine and in respect of its division in equal shares between the Dewan and Khadims of the Dargah Sharif. The Additional District Judge of the erstwhile State of Ajmer-Merwara had decreed the plaintiffs' suit for grant of permanent-perpetual injunction and the decree was drawn up vide order dated 3.5.1933. In the meanwhile, the Khadims who were entrusted with the responsibility of taking care of the offerings made by the pilgrims of the holy shrine had started disbursement of the said offerings in fair proportion of 50 per cent each to the then Dewan of the said shrine and thereafter to the petitioner w.e.f. 1975 to 1991. The petitioner had obviously not taken steps for execution of the decree dated 3.5.1933 earlier since compliance of the said order/decreed was being done by the non-petitioners-judgment-debtors for the period 1975 to 1991 and the dispute arose thereafter between the parties as on 17.8.1991 when the execution application was presented before the trial Court by the petitioner. In view of the dispute having arisen between the parties as regards the distribution of offerings in terms of the decree dated 3.5.1933 to the extent of 50% of petitioner's share in the offerings as Diwan of Holy Shrine before the learned District Judge, Ajmer on 16/17.8.1991 for due execution of the decree in accordance with law. The question which cropped up for discussion before the learned District Judge, Ajmer was as to whether the District Judge Ajmer was competent enough to execute the decree particularly when the impugned-decree was passed by the Additional District Judge, of the erstwhile State of Ajmer-Merwara and on merger of the said State with the State of Rajasthan, whether the jurisdiction did not automatically stood vested with the District Judge, Ajmer being successor in office of the erstwhile Merwar-Ajmer State.

2. In the Execution Petition, it was specifically stated that the petitioner-decree holder is the present Sajada Nashin since 1975 and after the death of his father Late Shri Dewan Syed Ilaamuddin Ali Khan II Sajada Nashin Hazrat Khawaja Sahib by virtue of being son and successor is competent to execute the aforesaid decree passed in Civil Suit No. 9/1929 vide which it was adjudicated that Sajada Nashin is entitled for 50% of offerings being made by the pilgrims at the holy Dargah Sharif of Khawaja Sahib and he will be competent to give contract for disbursement of the same amongst the persons authorized and competent to receive the same in accordance with the terms of Decree. Since the dispute arose as regards the offerings after the Urs of 1991, [the earlier understanding and consent between the parties could not continue and, therefore, the petitioner had given a contract after inviting tenders in accordance with law to Shri Anil Ali Khan son of Shri Mohammed Ajar Khan and Shri Wahid Mohammed Khan son of Shri Zafar Mohammed Khan both residents of Ajmer accepting their tenders but when obstruction was created by the Judgment-debtors even in the entrance of Dargah of the aforesaid Contractors and in recovery of the amount of offerings, ultimately it was the petitioner who had to suffer and hence he moved the execution application for execution

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of the decree. It was also prayed therein that a Receiver may also be appointed for collecting, recovering, managing and distributing the amount of offerings during the pendency of execution application, but in view of the obstruction created by judgment-debtors-non-petitioners, the execution of the decree has not been light of day till date. In the aforesaid Execution Petition dated 17.8.1991, the petitioner had sought the relief from the Executing Court for appointment of a Receiver who may duly authorize for collecting, recovering, managing and fair distribution of the amount of offerings made by the pilgrims visiting the holy Dargah Sharif at Ajmer from time to time. It is pertinent to mention in this context that along with aforesaid execution petition simultaneously another execution application dated 16/17.8.1991 was also moved by the decree-holder i.e. the present petitioner that in the event of Executing Court entertaining any reasonable doubt regarding competence of the said Court as regards its jurisdiction to adjudicate and decide the said application, it may be sent to the equivalent and competent Court of ADJ No. 1 or ADJ No. 2, Ajmer for its effective and final adjudication in accordance with law. The respondents-judgment debtors were duly notified by the Executing Court and their objections were also invited as regards the maintainability of the execution application by the Executing Court. This fact is borne out from the perusal of order-sheets that the matter was fixed and shown from time to time on 14.1.1992, 22.1.1992, 7.2.1992, 18.4.1992, 24.4.1992, 13.5.1992, 20.5.1992, 29.5.1992, 18.7.1992, 29.7.1992, 13.9.1992, 26.9.1992 & 17.10.1992 but the matter could not be heard and finally decided. On 22.10.1992 instead of pronouncing the order for which the matter was fixed, the order-sheet was drawn up by the Executing Court to the effect that since the aforesaid application dated 16/17.8.1991 could not be disposed of and is pending adjudication as such, the said application was fixed for orders on 29.10.1992. Even on the said date no final order could be passed by the learned Presiding Officer and the matter was again adjourned for 20.2.1993 when the arguments were heard by the Executing Court and the matter was again fixed for pronouncement of orders on 23.2.1993. On the said date the impugned-order was pronounced and the execution application itself was dismissed without passing any order on the application dated 17.8.1991 against which, the present revision petition has been preferred before this Court.

3. I have heard learned counsel of the parties at length and examined the relevant record and the legal position on the subject. *Prima facie*, I am of the considered view that there was no necessity or justification for the District Judge, Ajmer to have observed in the impugned-order that it has no competence or jurisdiction to decide the execution proceedings arising out of the impugned-decree in view of the provisions of O. 21 Rr. 5 & 6 of the Code of Civil Procedure, 1908, which stipulates, as under:—

"5. Where a decree is to be sent for execution to another Court, the Court which passed such decree shall send the decree directly to such other Court whether or not such other Court is situated in the same State, but the Court to which the decree is sent for execution shall, if it has no jurisdiction to execute the decree, send it to the Court having such jurisdiction.

6. The Court sending a decree for execution shall send—

- (a) a copy of the decree;
- (b) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unsatisfied; and

- (c) a copy of any order for the execution of the decree or, if no such order has been made, a certificate to that effect."

4. Further, from the perusal of R. 8 of O. 21, CPC, it is abundantly clear that immediately on receipt of the aforesaid documents as stipulated in accordance with law as per the requirements of R. 6, the decree or the order may, if the Court to which it is sent is the District Judge, be executed by such Court or to be transferred for execution to any subordinate Court which is of equivalent competent jurisdiction to decide and adjudicate the matter in dispute for the purpose of executing the decree finally. Hence, it is thus obvious from the aforesaid provisions that the scope as regards the competence, jurisdiction and powers of the Executing Court is limited and confined only to the execution of decree after inviting objections from the judgment-debtors and, thereafter, finally adjudicating and deciding the controversy between the parties and not to prolong the same for any unjustifiable reason as has been done by the Courts below in the instant case. As a matter of fact, no further clarification was required since the provisions of law are itself clear and make it obligatory for the competent Court i.e. the District Judge, Ajmer who was himself competent enough to decide the execution proceedings finally or should have entrusted the same to the equivalent competent Court of either ADJ No. 1 or ADJ No. 2, Ajmer in accordance with fair exercise of judicial discretion particularly when, he himself came to the conclusion that ADJ No. 1, Ajmer had the jurisdiction to decide the execution proceedings finally in accordance with law.

5. Before parting with the case, I would like to make reference to the provisions of Sec. 37 of the Code of Civil Procedure, 1908, which stipulates, as under :—

"37. The expression "Court which passed a decree" or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the subject or context, be deemed to include.

- (a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and
- (b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

Explanation : The Court of first instance does not cease to have jurisdiction to execute a decree merely on the ground that after the institution of the suit wherein the decree was passed or after the passing of the decree, any area has been transferred from the jurisdiction of that Court to the jurisdiction of any other Court; but in every such case, such other Court shall also have jurisdiction to execute the decree, if at the time of making the application for execution of the decree it would have jurisdiction to try the said suit."

6. My observations are also fortified from the judgment of Karnataka High Court in the matter of *Smt. Laxmi Nagappa Hegde vs. The Karnataka Bank Ltd., Sirsi & Ors.*, AIR 1988 Karnataka 44 wherein, the similar controversy had arisen before the Karnataka High Court and wherein the learned Single Judge of Karnataka High Court has observed as under :—

"In view of the Explanation to Sec. 37 there would be two Courts which would come within the meaning of the words "the Court which passed the decree" in Sec. 37. One would be the Court that actually passed the decree



and the second would be the Court which has been established newly having jurisdiction over a part of the territory over which also the Court which actually passed decree had originally the jurisdiction. The new Court thus established having jurisdiction over a portion of the territory will have to be also deemed as a Court that passed the decree. Therefore, such a Court also would have jurisdiction to execute the decree without that decree being transferred to it by the Court which originally and actually passed the decree. Section 38 cannot be read in isolation. It only says that the decree may be executed either by the Court which passed it or by the Court to which it is sent for execution. The phrase "by the Court to which it is sent for execution" would mean the Court situate beyond the territorial jurisdiction of the Court which passed the decree. But if it is read along with Sec. 37, Explanation the newly established Court for part of the territory will have to be deemed as a Court that passed the decree. Section 39(3) makes it clear that the transferee Court must be also a competent Court. It does not in any way come in conflict with Sec. 37 Explanation."

7. As a result of above discussion, I accordingly direct that the impugned-order dated 23.2.1993 passed by the District Judge, Ajmer is not tenable in the eyes of law and is accordingly quashed and set-aside. It is accordingly directed that the District Judge, Ajmer shall decide the execution proceedings arising out of decree dated 3.5.1933 passed in Civil Suit No. 9/1929 by the Additional District Judge of the erstwhile State of Ajmer-Merwara himself or assign the same to ADJ No. 1, Ajmer or ADJ No. 2, Ajmer who shall decide the same finally in accordance with law. It is further directed that in case the respondent-judgment debtors have raised any objection other than the objections pertaining to the jurisdiction of the Court the same shall also be heard and finally decided by the Executing Court to which the matter is entrusted by the learned District Judge, Ajmer simultaneously. It is further directed that since the matter has been pending adjudication since 17.8.1991 and the dispute pertains to the disbursement of offerings made by the pilgrims who may be visiting holy Dargah Shariff from time to time, the ADJ No. 1, Ajmer will act as a Receiver in the matter in accordance with the provisions of O. 40 Rr. 1 to 4 CPC. The said Receiver shall be fully authorized to keep the proper maintenance of all the accounts of offerings made to the holy shrine of Dargah Shariff at Ajmer by opening an account in any Nationalized bank at Ajmer and the said account shall be opened and operated in the name of the Receiver appointed by this Court for maintaining accounts in respect of the offerings made in Dargah Sharif by the pilgrims visiting from time to time. The Receiver is further directed to get a complete inventory prepared as regards the offerings made to the holy shrine from the year 1991 to date by the respective Khadims as well as other authorized persons of Dargaha Sharif who have been collecting the said offerings from Dargaha Sharif. It is further directed that the Receiver shall make disbursement of the amount of offerings made to the holy shrine by the pilgrims visiting from time to time to the petitioner who is presently Dewan of Dargaha Sharif as well as to other respective Khadims strictly in terms and in accordance with the decree dated 3.5.1993. The Receiver is directed to function immediately and not later than four weeks from the date of submission of the certified copy of the order of this Court. The Receiver shall be at liberty to defray necessary expenses to be incurred by him and his staff so deputed for compliance of the aforesaid directions of this Court from time to time out of the amount received by the Management of Dargah Sharif and is directed to maintain proper account of the same on record. The Executing Court is further directed to expeditiously deal with and decide

the matter after inviting objections from the parties concerned, deal with the said objections if any and decide the same in accordance with law within a period of six months from the date of receipt of certified copy of this order.

8. With the above observations, the revision petition is allowed and stand disposed of. There shall be no order as to costs.



1998 DNJ [Raj.] 698

RAJASTHAN HIGH COURT

(S.B. CIVIL REVISION PETITION NO. 644 of 1995; decided on 24.4.1998)

PRESENT :

HON'BLE MR. JUSTICE P.C. JAIN

Nathmal & Ors. *Petitioners*

versus

Joint Chief Officer, R.B.I., Jaipur *Respondent*

Civil Procedure Code, 1908—O. 11 R. 14—Production of documents—It is the discretion of the Court to order production of documents—Twin conditions are; (i) The documents should be in the power and possession of the opposite party and (ii) Those should relate to the controversy in the suit—The petition for production was rejected as it did not fulfill these conditions—Impugned order upheld. [Paras 6 & 7]

सिविल प्रक्रिया संहिता, 1908—आदेश 11 नियम 14—विलेखों (दस्तावेजों) का प्रस्तुत करना—विलेखों को पेश करने का आदेश देना न्यायालय के विवेकाधीन है—तदर्थ दो शर्तें हैं; (i) दस्तावेज विपक्षी पक्षकार के आधिपत्य और नियन्त्रण में हों और (ii) वे वाद ग्रस्त समस्या (विवाद) से संबंधित होने चाहिये—इन शर्तों की पूर्ति नहीं होने के कारण आवेदन खारिज किया गया—आक्षेपित आदेश यथावत रखा।

Revision dismissed

पुनरीक्षण खारिज ।

Case referred

Basanagouda vs. Dr. S.B. Amarkhed & Ors., (1992) 2 SCC 612—Relied on

Counsel appeared

None present, for the petitioners

Mr. M.D. Purohit, for the non-petitioners

BY THE COURT.—The plaintiff-petitioners, feeling aggrieved by the order dated 2.6.1995 passed by the learned Addl. Civil Judge (Jr. Div.) cum Judicial Magistrate No. 3, Bikaner, by which the application filed by the plaintiff-petitioners u/O. 11 R. 14 CPC was dismissed, have filed this revision petition u/s. 115 CPC.

2. The plaintiff-petitioners filed a suit for injunction against the defendant-non-petitioners with the averments that there is a building situated in the Bikaner City known as 'Sukhlekh Katla'. The building is more than 100 to 150 years old. A large number of tenants are residing in that building. The defendants no. 1 to 9 are also having their offices in this building. The defendant-non-petitioners No. 1 to 8 have also got a strong room. According to the plaintiffs, the condition of the building has become very weak and there is every danger of its collapse at any time. The railway line, which was meter gauge, has been converted into broad gauge. Violent vibrations generated by the railway line, further aggravated the life of the building. The natural calamities also contributed in this regard inasmuch as there was a heavy rainfall on 8/9.7.1993 and the rain water entered in the Bank premises of non-petitioners No. 1 to 8 and even entered into the strong room of the Bank. So much so the Bank could not function on the said dates. The

applicable on the date of accident by charging a premium of Rs. 6/- per passenger liability of the company per passenger was Rs. 5,000/- only. The Indian Motor which regulates a premium and liability of insurance company is framed by the Advisory Committee, a statutory body set up under the Insurance Act. The additional premium of Rs. 300/- was thus paid to cover the statutory liability for 50 passengers the vehicle insured was a passenger bus having registered capacity of carrying passengers. Endorsement No. 13 which was attached to and formed part of the and which we have set out above also makes it clear that it was in consideration additional premium of Rs. 300/- that the insurance company had undertaken to the insured against his liability in respect of passengers to the extent of Rs. 5,000 each passenger and Rs. 75,000/- in all. It is, therefore, not possible to accept the contention raised on behalf of the appellant that the additional premium of Rs. 300/- was paid for covering higher than the statutory liability. There was no special to cover unlimited liability in respect of the passengers.

12. As we do not find any substance in any of the two contentions raised on behalf of the appellant these appeals are dismissed. However, in view of the facts and circumstances of the case there shall be no order as to costs.



1998 DNJ[SC] 297

SUPREME COURT OF INDIA

[CIVIL APPEAL NO. 2587 of 1998;

Arising out of SLP (C) No. 7632 of 1996;

WITH

CIVIL APPEAL NO. 2588 of 1998 @ SLP (C) No. 7654 of 1998, CIVIL APPEAL NO. 2589 of 1998 @ SLP (C) NO. 8550 of 1998 CC4222 of 1998, CIVIL APPEAL NO. 2590 of 1998 @ SLP (C) NO. 8551 of 1998 CC 4260 of 1998; decided on 4.5.1998]

PRESENT :

HON'BLE MR. JUSTICE K. VENKATASWAMI

HON'BLE MR. JUSTICE G.B. PATTANAIK

Anjuman Moiniya F.C.K. Khwaja Sahib Appellant

versus

Diwan Syed Ale R.A.S.N.K.M.C. Saheb & Ors. Respondents

Civil Procedure Code, 1908—O. 40, R. 1—Appointment of Receiver—High Court while upholding jurisdiction of District Judge in execution petition, appointed ADJ to act as Receiver—Held, Not proper—Impugned order quashed and matter remitted to D.J. [Paras 4 & 5]

Appeal disposed of

K. VENKATASWAMI, J.—Heard counsel on both sides.

2. Leave granted.

3. We refrain from going into the facts in detail.

4. The High Court of Rajasthan while holding that the District Judge, Ajmer has jurisdiction to go into the execution petition and remitting back the matter to him, has also directed the Additional District Judge No. 1, Ajmer to act as a Receiver in accordance with the provisions of O. 40, Rr. 1 to 4 CPC.

5. After hearing counsel on both the sides we are of the view that the High Court on the facts of this case could have left the matter to the District Judge, Ajmer for further appropriate orders.

6. Accordingly, we set aside the order of the High Court insofar as it related to the appointment of Receiver and direct the District Judge, Ajmer to dispose of the Execution Petition in accordance with law.

7. The application for appointment of Receiver can be considered and disposed of separately on merits. Parties are at liberty to raise all contentions available to them in law before the learned District Judge.

8. The appeals are disposed of accordingly.

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1998 DNJ [SC] 298

SUPREME COURT OF INDIA

[CIVIL APPEAL NOS. 5028-28A of 1995; decided on 6.4.1998]

PRESENT :

HON'BLE MR. JUSTICE A.P. MISRA

HON'BLE MR. JUSTICE K. VENKATASWAMI

Food Corporation of India Appellant
versus
The Union of India & Ors. Respondents

Employees Provident Fund and Miscellaneous Provisions Act, 1952—Secs. 2(e) & (g)—Employer and employee—Contractor employing labour for work of FCI—Security deposited by contractor—High Court without sufficient material treating contract labour as employees of FCI and fixing liability—Held, Not justified.

Appeal allowed

Counsel appeared

Mr. V.R. Reddy, Additional Solicitor General, Mr. Vivek Gambhir, & S.K. Gambhir, Advts., with him, for the appellants

Mr. E.M.S. Anam, Mr. Y.P. Mahajan, Mr. D.S. Mehra, Mr. C.V.S. Rao & Mr. M.P. Vinod, Advts., for the respondents

K. VENKATASWAMI, J.—These two appeals arise out of an order dated 9.12.1994 of the Kerala High Court in Writ Appeal No. 664/91 and O.P. No. 7523/89. The questions that arose for consideration before the High Court in Writ Appeal No. 664/91 were (a) whether the Food Corporation of India (for short 'FCI') the appellant herein, for the purposes of application of the provisions of the Employees' Provident Funds and Miscellaneous Provision Act, 1952 (hereinafter referred to as the "Act") would be an 'establishment' and (b) whether 31 headload workers (workers in question for short) engaged by the Contractor in loading and unloading operation at Kuttipuram Railway Station would be regarded as 'employees' of the FCI within the meaning of Sec.

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4. The court is directed to go into the execution of the order of the High Court and to direct the Additional District Judge, Ajmer to go into the execution of the order of the High Court and to direct the Additional District Judge, Ajmer to go into the execution of the order of the High Court.
5. After hearing counsel on both the sides we are of the view that the High Court has also directed the Additional District Judge, Ajmer to go into the execution of the order of the High Court with the provisions of O. 40, Rr. 1 to 4 CPC.
6. Accordingly, we set aside the order of the High Court insofar as it related to the execution of the order of the High Court and direct the District Judge, Ajmer to go into the execution of the order of the High Court.
7. The application for appointment of Receiver can be considered and disposed of separately on merits. Parties are at liberty to raise all contentions available to them before the learned District Judge.

(CIVIL APPEAL NOS. 5028-207)
PRESENT :
HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE K. VENKATASWAMI
HON'BLE MR. JUSTICE K. VENKATASWAMI
Appellant

Food Corporation of India versus Hindustan & Ors.	Respondents
1. The respondents are the members of the Board of Directors of the Food Corporation of India.	10
2. The respondents are the members of the Board of Directors of Hindustan & Ors.	10
3. The respondents are the members of the Board of Directors of the Government of India.	10
4. The respondents are the members of the Board of Directors of the Ministry of Food and Civil Supplies.	10
5. The respondents are the members of the Board of Directors of the Ministry of Agriculture.	10
6. The respondents are the members of the Board of Directors of the Ministry of Commerce.	10
7. The respondents are the members of the Board of Directors of the Ministry of Industries.	10
8. The respondents are the members of the Board of Directors of the Ministry of Labour.	10
9. The respondents are the members of the Board of Directors of the Ministry of Health.	10
10. The respondents are the members of the Board of Directors of the Ministry of Education.	10
11. The respondents are the members of the Board of Directors of the Ministry of Transport.	10
12. The respondents are the members of the Board of Directors of the Ministry of Public Works.	10
13. The respondents are the members of the Board of Directors of the Ministry of Housing.	10
14. The respondents are the members of the Board of Directors of the Ministry of Social Welfare.	10
15. The respondents are the members of the Board of Directors of the Ministry of Law.	10
16. The respondents are the members of the Board of Directors of the Ministry of Justice.	10
17. The respondents are the members of the Board of Directors of the Ministry of Defence.	10
18. The respondents are the members of the Board of Directors of the Ministry of External Affairs.	10
19. The respondents are the members of the Board of Directors of the Ministry of Information and Public Relations.	10
20. The respondents are the members of the Board of Directors of the Ministry of Science and Technology.	10
21. The respondents are the members of the Board of Directors of the Ministry of Space.	10
22. The respondents are the members of the Board of Directors of the Ministry of Atomic Energy.	10
23. The respondents are the members of the Board of Directors of the Ministry of Environment and Forests.	10
24. The respondents are the members of the Board of Directors of the Ministry of Culture.	10
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The Union of India & Ors. Respondent

Employees Provident Fund and Miscellaneous Provisions Act, 1952—Secs. 2(e) & (f)—Employer and employee—Contractor employing labour for work of FCI—Security deposited by contractor—High Court without sufficient material treating contract labour as employees of FCI and fixing liability—Held, Not justified. [Paras 8 & 9]

Appeal allowed

Counsel appeared
Mr. V.R. Reddu, Additional Solicitor General, Mr. Vivek Gambhir, & S.K. Gambhir, Advs., with him, for the appellants
Mr. E.M.S. Anam, Mr. Y.P. Mahajan, Mr. D.S. Mehra, Mr. C.V.S. Rao & Mr. M.P. Vinod, Advs., for the respondents

K. VENKATASWAMI, J.—These two appeals arise out of an order dated 9.12.1994 of the Kerala High Court in Writ Appeal No. 664/91 and O.P. No. 7523/89. The questions that arose for consideration before the High Court in Writ Appeal No. 664/91 were (a) whether the Food Corporation of India (for short 'FCI') the appellant herein, for the purposes of application of the provisions of the Employees' Provident Funds and Miscellaneous Provision Act, 1952 (hereinafter referred to as the "Act") would be an 'establishment' and (b) whether 31 headload workers (workers in question for short) engaged by the Contractor in loading and unloading operation at Kuttipuram Railway Station would be regarded as 'employees' of the FCI within the meaning of Sec.

Devanayed Rajinul Abedin Ali Khan

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