

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9222 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 32834 OF 2013]

HIND KAMGAR SANGHATANA

Appellant (s)

VERSUS

DAI ICHI KARKARIA LTD. AND ANR.

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.
2. The appellant is before this Court, aggrieved by the impugned judgment, whereby the order passed by the Industrial Tribunal, Pune, has been upheld. The Tribunal has taken a view that since the appellant was not a recognised union under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, at their instance, the Reference could not be answered. Reliance has been placed on the first proviso to Section 36 of the Industrial Disputes Act, 1947, as applicable to the State of Maharashtra.
3. The learned senior counsel appearing for the appellant has brought to our notice that there is no recognised union under the first respondent since the registration under the Trade Unions Act granted to the second respondent has been cancelled. The

learned counsel for the second respondent submits that the issue is pending before the appellate authority. Be that as it may, as rightly pointed out by Sh. C. U. Singh, learned senior counsel, that this issue has not been adjudicated before the High Court. At any rate, the High Court has not gone into the issue, apparently because according to the learned senior counsel, this point was not canvassed before the High Court. Though there are serious disputes as to whether this point was canvassed or not, we find that this was one of the issues raised even before the Industrial Tribunal and the point is seen raised in the High Court as well. Though normally, the court would have relegated the appellant to pursue the remedy of review, we do not propose to do so since the matter was pending for the last four years. Hence, we are of the view that the matter needs to be sent back to the High Court.

4. Accordingly, without expressing any opinion on the merits of the issue raised before this Court by the appellant on the recognition/registration aspect of the unions, we set aside the Judgment and remit the matter to the High Court with a request to the High Court to hear the parties afresh and decide on the point, as to what happens in case there is no recognised union available in an establishment. We also make it clear that the High Court may also go

into other questions as to what happens when there is a registered union under the Trade Unions Act. Since the writ petition is of the year 2012, we request the High Court to dispose of the writ petition expeditiously and preferably, within six months from the date of production of a copy of this judgment.

5. We also make it clear that the contentions advanced by the learned counsel for the second respondent that their recognition continues despite cancellation of registration is also kept open, to be argued before the High Court.

6. We further make it clear that it will be open to the applicant-union in I.A. 3 of 2016 to approach the High Court for impleadment.

7. With the above observations and directions, this appeal is disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

New Delhi;
July 18, 2017.