

Before : I. S. Tiwana, J.

MARKFED,—Petitioner.

versus

HARJEET SINGH AND ANOTHER,—Respondents.

Civil Revision No. 2159 of 1990

10th December, 1990

Constitution of India, 1950—Art. 227—Markfed Bye-laws—Bye-laws 23 & 27—Case filed on behalf of Markfed by Law Officer—No resolution passed by Executive Committee authorising Managing Director or Law Officer to file petition—Such petition—Whether maintainable.

Held, that the Executive Committee is constituted by the Board of Directors under Bye-law 23 which says that one of the duties of the Board of Directors shall be to appoint an Executive Committee and an Administrative Committee. The learned counsel is not in a position to refer to any decision or resolution of the Executive Committee authorising the Managing Director, much less the Law Officer through whom this petition has been filed to impugn the order in question. It is, therefore, patent that at no stage any competent authority took the decision to challenge the impugned order of the Labour Court before this Court. I am, therefore, of the considered view that the present petition is not maintainable.

(Para 2)

Petition under Article 227 of the Constitution of India praying that the order dated 30th April, 1990 may kindly be declared to be illegal and be reversed in the interest of justice.

R. K. Chopra, Advocate, for the Petitioner.

J. C. Verma, Sr. Advocate with Dinesh Kumar Advocate and R. K. Gautam, Advocate, for the Respondent.

JUDGMENT

I. S. Tiwana, J. (Oral)

(1) This petition has been filed on behalf of Markfed to impugn the order of the Labour Court dated April 30, 1990,—*vide* which two preliminary issues in the litigation pending between the parties have been disposed of. An objection has been taken on behalf of respondent with regard to the maintainability of this petition on the ground that at no stage the Markfed decided to impugn

the said order of the Labour Court and Law Officer through whom this petition has been filed was not competent to take such a decision and to maintain this petition.

(2) To meet the contentions raised by the learned counsel for the respondent. Mr. Chopra the learned counsel for the petitioner refers to bye-law 27 of the Bye-laws framed by the abovenoted Federation; the relevant part thereof is as under :—

“The Managing Director of the Federation shall have the following powers and duties :—

(viii) to sue and be sued in the name and on behalf of the Federation when authorised to do so by the Executive Committee.”

Concededly the Executive Committee is constituted by the Board of Directors under Bye-law 23, which says that one of the duties of the Board of Directors shall be to appoint an Executive Committee and an Administrative Committee. The learned counsel is not in a position to refer to any decision or resolution of the Executive Committee authorising the Managing Director, much less the Law Officer through whom this petition has been filed to impugn the order in question. It, therefore, is patent that at no stage any competent authority took the decision to challenge the impugned order of the Labour Court before this Court. I am, therefore, of the considered view that the present petition is not maintainable and the same is, therefore, dismissed. No costs.

P.C.G.

Before : I. S. Tiwana, J.

OM PARKASH GOYAL.—Petitioner.

versus

RAM KRISHAN CHHOKAR,—Respondent.

Civil Revision No. 2346 of 1990

14th January, 1991.

Code of Civil Procedure, 1908—S. 115, O. 39, Rls. 1 & 2—Tenant in possession of partially constructed house—Landlord wishing to construct unbuilt portion of permissible area—Suit by landlord restraining tenant to interfere with his rights—Tenant—Whether a tenant of entire premises—Findings of Appellate Court upheld.