

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6586/2019

THYSSEN KRUPP INDUSTRIES INDIA PRIVATE
LIMITED & ORS. . . . APPELLANT(S)

VERSUS

SURESH MARUTI CHOUGULE & ORS. . . . RESPONDENT(S)

WITH

WRIT PETITION (CIVIL) NO. 1169/2018

CIVIL APPEAL NO. 6587/2019

CIVIL APPEAL NO. 3905/2022

O R D E R

C.A. NO. 6586/2019

The present matter comes up before this Bench as a consequence of the order passed on 21.08.2019 by a Bench of two Judges who held that the judgment of three Judges' Bench of this Court in *Paradip Port Trust, Paradip vs. Their Workmen* (1977) 2 SCC 339 is required to be re-looked.

We have heard learned counsel for parties at length.

Learned counsel for the appellants has endeavoured to point out that the appellants have

also assailed the constitutional validity of certain provisions which was not done earlier, that Advocates have been impleaded as parties, that the legislature in making the provisions arbitrarily and/or the implementation of the legislation will result in a discrimination.

We have been taken through the judgment in *Paradip Port Trust, Paradip* (supra).

In a nutshell, the issue is whether the provisions of the Industrial Disputes Act, 1947, dealing with the aspects of representation by either of the parties through a specific lawyer and limitation put thereon, needs to be re-looked. The *Paradip Port Trust, Paradip* (supra) is clearly of the view as enunciated in para 16 as under :

“16. If, however, a legal practitioner is appointed as an officer of a company or corporation and is in their pay and under their control and is not a practising advocate the fact that he was earlier a legal practitioner or has a legal degree will not stand in the way of the company or the corporation being represented by him. Similarly if a legal practitioner is an officer of an association of employers or of a federation of such associations, there is nothing in Section 36(4) to prevent him from appearing before the tribunal under the provisions of Section 36(2) of the Act. Again, an office-bearer of a trade union or a member of its executive, even though he is a legal practitioner, will be entitled to represent the workmen

before the tribunal under Section 36(1) in the former capacity. The legal practitioner in the above two cases will appear in the capacity of an officer of the association in the case of an employer and in the capacity of an office-bearer of the union in the case of workmen and not in the capacity of a legal practitioner. The fact that a person is a legal practitioner will not affect the position if the qualifications specified in Section 36(1) and Section 36(2) are fulfilled by him."

Another aspect to the discussion dealing with Section 30 of the Advocates Act, 1961 (then not in force but examined in the context that even if it was in force, what will be the consequence) has been discussed in paras 23 and 24 as under:

"23. Besides, it is also urged by the appellant that under Section 30 of the Advocates Act, 1961, every advocate shall be entitled "as of right" to practise in all courts and before any tribunal [Section 30(i) and (ii)]. This right conferred upon the advocates by a later law will be properly safeguarded by reading the word "and" as "or" in Section 36(4), says counsel. We do not fail to see some difference in language in Section 30 (ii) from the provision in Section 14(1) (b) of the Indian Bar Councils Act, 1926, relating to the right of advocates to appear before courts and tribunals. For example, under Section 14(1) (b) of the Bar Councils Act, an advocate shall be entitled as of right to practise save as otherwise provided by or under any other law in any courts (other than High Court) and tribunal. There is, however, no reference to "any other

law" in Section 30(ii) of the Advocates Act. This need not detain us. We are informed that Section 30 has not yet come into force. Even otherwise, we are not to be trammelled by Section 30 of the Advocates Act for more than one reason. First, the Industrial Disputes Act is a special piece of legislation with the avowed aim of labour welfare and representation before adjudicatory authorities therein has been specifically provided for with a clear object in view. This special Act will prevail over the Advocates Act which is a general piece of legislation with regard to the subject-matter of appearance of lawyers before all courts, tribunals and other authorities. The Industrial Disputes Act is concerned with representation by legal practitioners under certain conditions only before the authorities mentioned under the Act. *Generalia specialibus non derogant*. As Maxwell puts it:

Having already given its attention to the particular subject and provided for it, the legislature is reasonably presumed not to intend to alter that special provision by a subsequent general enactment unless that intention be manifested in explicit language or there be something in the nature of the general one making it unlikely that an exception was intended as regards the special Act. In the absence of these conditions, the general statute is read as silently excluding from its operation the cases which have been provided for by the special one. (Maxwell on Interpretation of Statutes, 11th Edition, page 169.)

"24. Second, the matter is not to be viewed from the point of view of legal practitioners but from that of the employer and workmen who are the

principal contestants in an industrial dispute. It is only when a party engages a legal practitioner as such that the latter is enabled to enter appearance before Courts or tribunals. Here, under the Act, the restriction is upon a party as such and the occasion to consider the right of the legal practitioner may not arise."

We are in agreement with the view adopted in *Paradip Port Trust, Paradip's* case (supra). As emphasized, the matter is not to be reviewed from the point of view of the legal practitioner but from the aspect of the employer and workmen who are the principal contestants in an industrial dispute as observed in the aforesaid judgment.

We really find no ground to revisit the well settled position of law which has prevailed for almost half a century.

We answer the reference accordingly.

Insofar as the merits of the civil appeal are concerned, we are told that the matter already stands compromised and thus civil appeal does not require consideration on merits.

The appeal stands disposed of accordingly.

Intervention application also stands disposed of.

C.A. NO. 6587/2019

It is stated that the Civil Appeal directed

against the order of the Industrial Tribunal has abated on account of demise of the workman.

The appeal stands disposed of as abated.

W.P.(C) No. 1169/2018

Challenge has been laid to the provisions of Section 36(4) of the Industrial Disputes Act, 1947. We are conscious of the fact that the judgment in *Paradip Port Trust, Paradip's case* (supra) did not consider the aspect of constitutional validity, but then in the separate order passed today in C.A. NO. 6586/2019 we have dealt with that aspect to some extent. The substratum of the issue has been discussed in *Paradip Port Trust, Paradip's case* (supra) and merely because it is sought to be given a colour of a constitutional challenge to a provision makes no difference.

We may also say that the constitutional challenge has to be examined within a very narrow compass and certainly those parameters are not satisfied.

The writ petition is accordingly dismissed.

C.A. NO. 3905/2022

In view of the order passed today in C.A. NO. 6586/2019, *Thyssen Krupp Industries India*

*Private Limited & Ors. Vs. Suresh Maruti Chougule
& Ors.*, this appeal is dismissed.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[C.T. RAVIKUMAR]

.....J.
[SUDHANSHU DHULIA]

NEW DELHI,
OCTOBER 04, 2023.

ITEM NO.105

COURT NO.2

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 6586/2019

THYSSEN KRUPP INDUSTRIES INDIA PRIVATE LIMITED & ORS.Appellant(s)

VERSUS

SURESH MARUTI CHOUGULE & ORS.

Respondent(s)

([TO GO BEFORE THREE HON'BLE JUDGES]

IA No. 70829/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 70827/2018 - EXEMPTION FROM FILING O.T.

IA No. 155429/2018 - INTERVENTION APPLICATION)

WITH

W.P.(C) No. 1169/2018 (X)

C.A. No. 6587/2019 (III)

(IA No. 140171/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 140177/2018 - EXEMPTION FROM FILING O.T.)

C.A. No. 3905/2022 (XVII)

(FOR ADMISSION and I.R. and IA No.74930/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.74933/2021-EXEMPTION FROM FILING O.T. and IA No.74934/2021-APPLICATION FOR EXEMPTION FROM FILING ORIGINAL VAKALATNAMA/OTHER DOCUMENT)

Date : 04-10-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE C.T. RAVIKUMAR

HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Appellant(s)

Mr. Vinay Navare, Sr. Adv.

Mr. Pravartak Pathak, Adv.

Ms. Abha R. Sharma, AOR

Mr. J.P. Cama, Sr. Adv.

Mr. Varun Rajeev Joshi, Adv.

Mr. Soumik Ghosal, AOR

Mr. Gaurav Singh, Adv.

Mr. Anil B., Adv.

Mr. Vivek P Gupta, Adv.

Mr. J.P. Cama, Sr. Adv.
 Mr. Anand Pathak, Adv.
 Mr. Ravish Kumar, Adv.
 Mr. Vijay Purohit, Adv.
 Ms. Nidhi Raj Bindra, Adv.
 Mr. Surya Kapoor, Adv.
 Mr. Anil Bhat, Adv.
 Mr. Vivek P Gupta, Adv.
 Mr. Mohit Singh, AOR

For Respondent(s)

Mr. Amol B. Karande, AOR
 Mr. Narender Rao Thaneer, Adv.
 Mr. Shuvang Singh, Adv.
 Mr. Aditya Yadav, Adv.

Mr. Sanjay Singhvi, Sr. Adv.
 Mr. Rahul Kamerkar, Adv.
 Mr. Udayaditya Banerjee, AOR
 Ms. Aparajita Jha, Adv.
 Ms. Shreya Bhojnarwala, Adv.
 Mrs. Parul Shukla, Adv.

Mr. K.M. Nataraj, ASG
 Ms. Indira Bhakar, Adv.
 Mr. Akshay Amritanshu, Adv.
 Mr. Vinayak Sharma, Adv.
 Mr. Arvind Kumar Sharma, Adv.

Mr. Vikramjit Banerjee, A.S.G.
 Mr. Nachiketa Joshi, Adv.
 Mrs. Bhakti Vardhan Singh, Adv.
 Mr. Sachin Sharma, Adv.
 Mrs. Sweksha, Adv.
 Mr. Amrish Kumar, AOR

Mr. Ardhendumauli Kumar Prasad, AOR
 Mr. Ashish Madaan, Adv.
 Ms. Ananya Sahu, Adv.

Mr. Siddharth Dharmadhikari, Adv.
 Mr. Aaditya Aniruddha Pande, AOR
 Mr. Bharat Bagla, Adv.
 Mr. Sourav Singh, Adv.
 Mr. Aditya Krishna, Adv.
 Ms. Yamini Singh, Adv.
 Mr. Anoop Raj, Adv.

Mr. Seshatalpa Sai Bandaru, AOR

UPON hearing the counsel the Court made the following
O R D E R

C.A. No. 6586/2019

The appeal stands disposed of in terms of the signed order.

Intervention application also stands disposed of.
Pending applications stand disposed of.

C.A. NO. 6587/2019

The appeal stands disposed of as abated.
Pending applications stand disposed of.

W.P.(C) No. 1169/2018

The writ petition is dismissed in terms of the signed order.

C.A. No. 3905/2022

In view of the order passed today in C.A. NO. 6586/2019, *Thyssen Krupp Industries India Private Limited & Ors. Vs. Suresh Maruti Chougule & Ors.,* this appeal is dismissed.

Pending applications stand disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]