

A THE GENERAL MANAGER, PENCH AREA, PARASIA, M.P.
& ANR.

v.

BARKAN @ KANHAIYA

B DECEMBER 13, 2007

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Specific performance:

C *Suit for specific performance of contract of employment, alleging that inspite of a specific provision therein, Appellants did not employ son of Respondent—Maintainability of—Held: Not maintainable, since documentary evidence placed on record by Appellants showed that son of Respondent had been employed—Specific Relief Act, 1963—s.14.*

D **Respondent filed suit for specific performance of a contract of employment alleging that inspite of a specific provision in the contract, Appellants did not employ his son. Trial Court decreed the suit. The order was upheld by First Appellate Court and the High Court. Hence the present appeal.**

E **Allowing the appeal, the Court**

F **HELD: By an earlier order, this Court had permitted the appellants to file documents to show that the son of respondent no.1 had been given appointment on his nomination. The same has been filed. Though this document was not part of the records of the Courts below, but other evidence was available to show that, in fact, son of respondent no.1 named “Guntoo” was appointed at the request of respondent no.1. The document placed on record by the appellant pursuant to the order of this Court also clearly establishes this fact. In that view of the matter the suit filed by respondent no.1 deserves to be dismissed and the orders of the Trial Court, First Appellate Court and the High Court in the Second Appeal deserve to be set aside. [Paras 5 and 6] [586-B-D]**

H 584

THE GENERAL MANAGER, PENCH AREA, PARASIA, 585
M.P. v. BARKAN @ KANHAIYA [PASAYAT, J.]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2711 of A
2001.

From the final Judgment and Order dated 21.12.1999 of the High
Court of Madhya Pradesh at Jabalpur in Second Appeal No. 856 of 1996.

Anip Sachthey and Mohit Paul for the Appellants. B

B.K. Satija for the Respondent.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Challenge in this appeal is to the
order passed by a learned Single Judge of the Madhya Pradesh High
Court at Jabalpur Bench dismissing the appeal filed by the appellants. C

2. Background facts in a nutshell are as follows:

Respondent filed a suit for specific performance of the contract of
employment. According to the appellants, his lands were acquired for the
purpose of construction of quarters for the employees. D

2. Sale-deed was executed in respect of the land and there was
specific provision in a preceding agreement that four persons were to be
given employment. Allegation was that only three had been provided
employment and in spite of assurance the defendants did not give the job
to the plaintiffs. E

3. Stand of the defendants was that the suit was not maintainable.
In fact, four persons have been given employment. The Trial Court and
the First Appellate Court accepted the position that three persons had
been given jobs but held that no job was provided to the appellant. The
Trial Court noticed that even though it was contended by the present
appellants that one son of the plaintiff had been given a job, no document
in that regard had been filed. The First Appellate Court and the High Court
were of the same view. F G

4. The High Court held that the stand of the appellant that in view
of Section 14 of the Specific Relief Act, 1963, suit for specific
performance is not maintainable and is subject to certain exceptions. It H

A was held that since there was a solemn promise to employ four persons the appellants should not be permitted to wriggle out the promise by taking the plea that Section 14 of the Act bars a suit of the nature filed.

B 5. By order dated March 31, 2000, this Court had permitted the appellants to file documents to show that the son of the respondent no.1 had been given appointment on his nomination. The same has been filed. Though this document was not part of the records of the Courts below, but other evidence was available to show that, in fact, son of respondent no.1 named "Guntoo" was appointed at the request of respondent no.1. C The document placed on record by the appellant pursuant to the order of this Court also clearly establishes this fact.

D 6. In that view of the matter the suit filed by respondent no.1 deserves to be dismissed and the orders of the Trial Court, First Appellate Court and the High Court in the Second Appeal deserve to be set aside which we direct.

7. The appeal is allowed to the aforesaid extent. No costs.

B.B.B.

Appeal allowed.