

Union of India
 v.
 T. R. Varma
 —————
 Venkatarama
 Aiyar, J.

accordingly hold, differing from the learned Judges of the Court below, that the enquiry before Mr. Byrne was not defective, that the respondent had full opportunity of placing his evidence before him, and that he did avail himself of the same. In this view, it becomes unnecessary to express any opinion on the second question, which was raised by the learned Solicitor-General.

In the result, we allow the appeal, set aside the order of the Court below, and dismiss the writ application. There will be no order as to costs.

B. R. T.

APPELLATE CIVIL

Before Bhandari, C. J.

M/S ISHAR SINGH AND SONS,—*Plaintiffs-Appellants*

versus

THE MARKET COMMITTEE, TARN TARAN,—

Defendant-Respondent.

Regular Second Appeal No. 433 of 1957

1957
 —————
 Sept 19th

Punjab Agricultural Produce Markets Act (V of 1939)—Sections 2, 4, 27 and 28 and Rule 31—Act—Object and scope of—Power of a Market Committee to fix a place for the sale of agricultural produce—Market and Notified Market area—Distinction between—Power of a Market Committee to frame bye-law specifying a place for sale of agricultural produce—Punjab Agricultural Produce Market Rules, 1946—Rule 31—Bye-law 9-A framed by Market Committee, Tarn Taran—Validity of.

Interpretation of statutes—Express mention of one thing—Whether implies exclusion of another.

Held, as follows:—

(1) There is nothing in the Act to prevent a market committee from directing that all agricultural produce shall be sold by auction within the limits of the market.

(2) By enacting Rule 31 the State Government have imposed no restriction on the power of a market committee to make bye-laws under section 27 or bye-laws concerning the regulation of business or the conditions of trading.

(3) The principle of interpretation that the express mention of one thing implies the exclusion of another is not a rule of law but a rule of construction. It is a product of logic and commonsense and ought to be applied with care and caution so that a rational interpretation is produced and the policy of the law maker promoted. If the rejection of the maxim will serve the purpose for which the statute was enacted or will accomplish beneficial results, the maxim must be refuted.

Regular Second Appeal from the decree of the Court of Sh. Des Raj Dhameja, Senior Subordinate Judge with Enhanced Appellate Powers, Amritsar, dated the 28th day of March, 1957, by which the decree of the Court of Sh. Nahar Chand Gupta, Subordinate Judge, IV Class, Tarn Taran, dated the 26th day of June, 1956, whereby the suit of the plaintiff was decreed against the defendant, was set aside and the suit of the plaintiff was dismissed.

F. C. MITTAL for Appellants.

I. D. DUA for Respondent.

JUDGMENT

BHANDARI, C. J.—This appeal raises the Bhandari, C. J. question whether it is within the competence of a market committee to direct that a transaction for sale and purchase of agricultural produce shall be made only within the limits of market

M/s. Ishar Singh and Sons v. The Market Committee, Tarn Taran as defined in the Punjab Agricultural Produce Markets Act, 1939.

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In the year 1940, the Market Area Committee of Tarn Taran framed a set of bye-laws in exercise of the powers conferred upon it by the Punjab Agricultural Produce Markets Act of 1939. In the year 1947 it added a new bye-law which was in the following terms:—

“Sale of agricultural produce by open auction.

9-A. No transaction involving the sale or purchase of agricultural produce to which these bye-laws apply, shall be made otherwise than by open auction. Such auctions shall be held, during such business hours, as may from time to time be fixed by the Chairman of the Committee. The Chairman shall prepare and notify in such a manner as he may consider necessary a roster prescribing the order in which auction sales shall be held at different places in the market, and these sales shall be conducted in that order by the auctioneer appointed for this purpose under rule 28 of the Punjab Agricultural Produce Markets Rules, 1940. Any contravention of this bye-law shall be punishable with a fine which may extend to Rs. 50.”

In the year 1955, the Market Committee of Tarn Taran discovered that owing to heavy damage which had been caused to the cotton crop big press holder factories had joined hands in a sort of a pool and had enhanced pressing charges from Rs. 7-8-0 per bale to Rs. 12 per bale. They had formed a sort of a union which was controlling the rate of the commodity and the interests of the growers were being adversely affected in consequence. On the 1st November, 1955, the Committee passed a resolution that in future the sales of cotton should be restricted under bye-law No. 9-A to the market alone so that competition should be promoted and the growers should be able to obtain the maximum prices for their produce. The factory-owners were prohibited from making purchases at their own premises and exploiting the producers.

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On the 28th February, 1956, Messrs Ishar Singh and Sons who are owners of a ginning factory in the market area of Tarn Taran brought an action for a declaration that they were entitled to buy and sell cotton in their factory and for the grant of a permanent injunction restraining the Market Committee from interfering with the right of the plaintiffs under bye-law No. 9-A. The trial Court granted the declaration prayed for holding that although the bye-law was valid, the resolution was not in conformity with the provisions of law. The lower appellate Court, however allowed the appeal, set aside the order of the trial Court on the ground that it was within the competence of the Market Committee to frame bye-law No. 9-A and that restrictions on sale of cotton had been imposed not by the resolution of 1955 but by the bye-law of 1947. The plaintiffs are dissatisfied with the order and have come to this Court in second appeal.

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Mr. Mital, who appears for the plaintiffs, has placed two submissions before me. It is contended in the first place that bye-law No. 9-A does not apply to auctions which are held outside the limits of the market and (2) that in any case this bye-law is repugnant to the statute as well as to the rules framed thereunder.

The first contention appears to me to be wholly devoid of force. The language of the bye-law appears to me to be plain and unambiguous. It declares in the first place that no transaction involving the sale or purchase of agricultural produce to which these bye-law apply, shall be made otherwise than by open auction. Secondly, it provides that such auctions shall be held only during such business hours as may be prescribed by the Chairman of the Committee. Thirdly, it declares that the Chairman shall prepare and notify in such manner as he may consider necessary a roster prescribing the order in which auction sales shall be held at different places in the market, and fourthly it provides that these sales shall be conducted in that order by the auctioneer appointed for this purpose under rule 28 of the Punjab Agricultural Produce Markets Rules, 1940. The language of this rule appears to make it quite clear that all kinds of agricultural produce to which the bye-laws apply shall be sold at such hours as may be prescribed by means of an auction which will be held within the limits of the market. The expression "market" as defined in section 2 of the Act of 1939 means a building, block of buildings, enclosure or other area which may be so notified in accordance with the rules made under this Act. A market is clearly distinguishable from a "Notified market area" that is an area notified under the provisions of section 4.

The more important question however is whether the provisions of this bye-law are repugnant to the provisions of the Act of 1939 or to the rules framed under section 27 of the said Act. There is nothing in the Act of 1939 which appears to prevent a market committee from directing that all agricultural produce shall be sold by means of auction within the limits of the market. The Act of 1939 was enacted to provide for the better regulation of the purchase and sale of agricultural produce in the Punjab and for that purpose to establish markets and to make rules and bye-laws for their proper administration. Section 27 empowers the State Government to make rules consistent with this Act for carrying out all or any of the purposes thereof including a rule in regard to time, place and manner in which a contract between buyer and seller is to be entered into and the money is to be paid to the seller. Section 28 provides that subject to any rules made by Government under section 27, the market committee may, in respect of the notified market area under its management, make bye-laws for the regulation of business, the conditions of trading and may provide that contravention thereof shall be punishable on conviction with fine which may extend to Rs. 50. The expressions "regulation of business" and "conditions of trading" are wide enough to embrace a bye-law of the nature of bye-law No. 9-A. *Prima facie* bye-law No. 9-A does not appear to be consistent with the provisions of rule 31 of the rules framed by the State Government under section 27 of the Act of 1939. This rule runs as follows:—

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- "31. (i) In any notified market area for which tobacco has been notified as agricultural produce under section 4 the

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market committee may prescribe the places at which tobacco may be weighed, measured or sold.

- (ii) Subject to the provisions of sub-rule (i) weighments and measurements of agricultural produce intended for sale, may be made through licensed weighmen or measurers anywhere in a notified market area."

Mr. Mital has placed two submissions in regard to this rule. It is contended in the first place that as the State Government have chosen to declare that a market committee may prescribe the places at which tobacco may be weighed, measured or sold and as the express mention of one thing implies the exclusion of another, it must be assumed that the market committee has no power to prescribe the places at which agricultural produce other than tobacco may be weighed, measured and sold. Secondly, it is argued that subject to the provisions of sub-rule (i) weighment and measurement of agricultural produce intended for sale can be made anywhere in a notified market area, and consequently that the plaintiffs were at liberty to sell their goods at any place outside the limits of the market.

I regret I am unable to concur in either of these contentions. The principle of interpretation that the express mention of one thing implies the exclusion of another is not a rule of law but a rule of construction. It is a product of logic and commonsense and ought to be applied with care and caution so that a rational interpretation is produced and the policy of the law-maker promoted. If the rejection of the maxim will

serve the purpose for which the statute was enacted or will accomplish beneficial results, the maxim must be refuted. It may be that the State Government have empowered market committees to prescribe the places at which tobacco may be sold and have declared that other agricultural produce may be weighed and measured anywhere in the notified market area, but they have imposed no restriction on the power of market committee to make bye-laws under section 27 or to make any bye-laws concerning the regulation of business or the conditions of trading. The market committee in the present case have expressed the view that it was necessary for the protection of the interests of the traders that the sales of cotton should be made only within the limits of the market. It would, in my opinion, be defeating the object of this Act if Courts were to hold that market committees have no power to restrict the place in which transactions of sales and purchases should be entered into.

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Another objection was also raised, namely that as bye-law No. 9-A has imposed an unreasonable restriction on the liberty of the plaintiffs to carry on their trade the provisions of Article 19 of the Constitution have been violated. It is significant, however, that objection in regard to the unreasonable nature of the restrictions imposed by this bye-law was not taken either before the trial Court or before the lower appellate Court, and I find it impossible on the present state of the record to come to a clear conclusion as to whether the restrictions are reasonable or otherwise. The plaintiffs would, in my opinion, be at liberty to move an application under Article 226 of the Constitution if and when they are so advised.

For these reasons I would uphold the order of the lower appellate Court and dismiss the appeal with costs. Ordered accordingly.

D. K. M.