

Surendranath Sud (Dead) By L. Rs.

Vs

Standard Vacuum Oil Co. and Others

Civil Appeal Nos. 1374-1348 of 1968

(R. S. Sarkarkaria, V. R. Krishna, Iyer, Jaswant Singh JJ)

09.03.1977

JUDGMENT

KRISHNA IYER, J. –

1. These two appeals by special leave stem from a suit instituted by the appellant (now represented by his legal representative, his widow) for rendition of accounts against the defendant-respondent, the Standard Vacuum Oil Company Ltd. The respondent company has been taken over by the Hindustan Petroleum Corporation. We have heard Counsel on both sides. It is unfortunate that the plaint has been drafted in a confused manner and the written statement, probably misled by the plaintiff, has also not brought out the real contention between the parties. Sorting out the documents and the other evidence in the case, we have discovered that the foundation for the action is Ex. P-9(a), a contract between Mr. Sud the plaintiff and the S.V.O.C., the defendant. The courts, not having proper leadings before them, have not been able to approach the real issue arising in the case. The party mainly responsible for this misfortune is probably the plaintiff himself.

2. Even so, looking at the justice of the matter in the light of Ex. P-9(a), we are satisfied that the defendant-respondent should pay the plaintiff-appellant an amount which would represent the probable compensation in lieu of the claim made. We are overlooking the inartistic drafting, we are slurring over the true nature of the claim, we are not strictly interpreting the terms of the contract; but in an endeavour to do justice to the plaintiff (now represented by his legal representatives) we feel that it is appropriate to direct the respondent to pay a sum of Rs. 12,000 grounding ourselves on a fair understanding of the terms of Ex. P-9(a) and the surrounding circumstances. The quantification part is rough and ready because, in the circumstances, nothing else than an intelligent guess can be made.

3. In the result, we direct the respondent 1 to pay the appellants a sum of the Rs. 12,000 in full and final settlement of all claims under the agreements Exs. P-8, P-9 and P-9(a). This sum shall be payable within three months from to-day. In the circumstances, we direct that the parties do bear their costs throughout.

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