

Shyam Sunder Shaw

Vs

Netai Chand Shaw

Civil Appeal No. 4454 of 1986

(G. L. Oza, V. Khalid JJ)

15.04.1987

JUDGMENT

KHALID J. -

1. Heard the learned counsel for the appellant and the respondent. The appellant challenges the concurrent finding entered against him by three courts. We are not impressed with the submission made on the questions of fact and evidence, nor on the question of law. The appeal has, therefore, only to be dismissed and we do so.
2. The appellant submits that the partnership business in bakery is the only source of his livelihood, that the respondent is a new entrant having secured the right of his former partner, that the building in which the bakery is housed belongs to the railways, that he lives in one portion of the building and uses the remaining portion for the bakery and that he should not be denied his source of livelihood ultimately.
3. The present appeal is against the preliminary decree passed in a suit for dissolution of the firm and rendition of accounts. We feel that the submissions made by the appellant have to be considered sympathetically. It was this sympathy that prevailed upon this Court when an order was made on July 21, 1986, directing the appellant to deposit a sum of Rs. 20,000 which he has done. We think it necessary to make some observation in the interest of justice and to protect the appellant from a more influential person like the respondent in an unequal fight.
4. We would like to observe that in the final decree proceedings care will be taken to see that the appellant does not lose the building. After the accounts are settled and the amount payable on either side determined, necessary safeguards will have to be made to protect the interest of the appellant. We hope and trust that the railways to whom the land is said to belong will also see that the appellant is not deprived of this building. These are our observations in the peculiar facts of this case, which we trust will receive due consideration at the hands of the court and the railway authorities.
5. The appellant will be at liberty to withdraw the amount deposited by him in this Court as per order dated July 21, 1986, and to deposit the same in a nationalised bank in fixed deposit, lest he should find it difficult to raise the money when on settlement of accounts, amounts become payable.
6. There will be no order as to costs.

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