

Ragbir Singh and Others

Vs

Gurcharan Singh and Others

I. A. Nos. 1 and 2 in Civil Appeal Nos. 2818 and 2819 of 1989

09.01.1992

ORDER

1. By the order dated May 9, 1989 this Court directed that after the completion of the inventory, Gurcharan Singh shall act as a Receiver "to effectuate the winding-up proceedings" and pending dissolution he may "carry on day-to-day business of the firm" including the pending export project on hand but he should not undertake any new business. By our subsequent order dated November 25, 1991, we clarified that the underlying idea of the order was to effectuate winding up and complete the business which was in the pipeline without undertaking any new business whatsoever. It was pointed out us that the Receiver instead of carrying on day-to-day business which was in the pipeline was undertaking new business as was obvious from the sudden rise in the stock-in-trade. After explaining the purport of order of May 9, 1989, we directed the Receiver to file an affidavit clarifying (1) whether he has at any point of time after the passing of our order date May 9, 1989 entertained new orders for the supply of export material, and (2) whether he has undertaken any new business in regard to the firm at all after taking over as Receiver. In response thereto, he has filed an affidavit stating that he was not entertained any new export order after May 9, 1989 and has not undertaken any new business or new business venture after taking over as Receiver. However, while explaining the sudden rise in the stock-in-trade he states as under :

"The stock-in-trade has risen beyond what it was at the time of taking over as Receiver because he carried on day-to-day business of the firm as permitted by the order of May 9, 1989. The stock-of-trade has been fluctuating per day-to-day business and requirement."

2. He then goes on to explain as to what he understood by the expression "day-to-day business" in paragraph 3 of the affidavit as under :

"Day-to-day business means that he was to carry on the business of purchase and sale of the finished goods by respondent 2 and also sale of good manufactured at Ludhiana in the market."

3. It would appear from this statement that he was effecting purchase instead of clearing of the available stock-in-trade only. His explanation regarding the spurt in stock-in-trade is far from convincing. It, therefore, appears that there is substance in the grievance made by the opposite party.

4. We would once again emphasis the whatever day-to-day business was permitted to be carried on - on new business at all - was to effectuate the winding up and not to carry on the business in normal fashion as if there was no winding-up order. The purport of the order has been clearly explained by order dated November 25, 1991. From what the Receiver has stated on his affidavit it would appear the he has placed his own gloss over the purport of this Court's order. In order to ensure that our order is scrupulously followed, instead of removing him as a Receiver we direct the appointment of

a Co-Receiver along with him at each of the enterprise at Ludhiana and Calcutta to ensure that our order of May 9, 1989 is worked out. The trial court at Ludhiana will name an advocate of sufficient experience to work as a Co-Receiver there. We would also request the High Court of Calcutta to name an advocate of sufficient experience to work as a as a Co-Receiver for the Calcutta unit. The Registrar of this Court will address a letter to the Registrar of the Calcutta High Court in this behalf so that the appointment of Co-Receiver is made within 15 days from today. The IAs will stand disposed of accordingly. No costs.

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