

Maharaj Jagat Singh

Vs

Lt. Col. Sawai Bhawani Singh and Others

Civil Appeal No. 4492 of 1992

(Cji M. H. Kania, S. Ranganathan, N. M. Kasliwal JJ)

20.10.1992

JUDGEMENT

KANIA, C.J.I.:-

1. Leave granted. Counsel heard.

1A. This is an appeal directed against the judgment and order dated March 20, 1991 of a Division Bench of the High Court of Delhi in FAO (OS) No. 55/90* whereby the order of a learned single Judge rejecting the application made by the appellant for appointment of a Receiver was confirmed.

2. We propose to deal with the matter very shortly. We are refraining from giving our views on the legal questions involved in the suit lest that may prejudice the case of either party. Prior to 1947, Sir Sawai Man Singh (referred to hereinafter as 'Maharaja Man Singh') was the Ruler of the native State of Jaipur. On February 6, 1949, Maharaja Man Singh, for and on behalf of Jaipur State, entered into a covenant with the Government of India and the State of Jaipur acceded to India by an Instrument of Accession. On the merger of the State of Jaipur with India, the properties of the Jaipur State were divided into two categories, namely, State properties and private properties. The appellant and respondents 1, 3 and 4 are the sons of Maharaja Man Singh. Respondent No. 2 is his widow. Respondent No. 5 is the son of respondent No. 3 and respondent No. 6 is the minor son of the appellant. Respondent No. 7 is the daughter of the pre-deceased daughter of Maharaja Man Singh. On June 24, 1970, respondent No. 1, as the eldest son of Maharaja Man Singh, was recognised by the Government for the purposes of the covenant as the successor to Maharaja Man Singh. One of the controversies in the suit is whether the properties recognised as the private properties of Maharaja Man Singh were his personal properties or properties belonging to the Hindu Undivided Family of Maharaja Man Singh. The main question, however, which arises in the suit is whether respondent No. 1 is entitled to succeed to the properties of Maharaja Man Singh in his individual capacity on the basis of the rule of primogeniture or whether the said properties are the properties of a Hindu Undivided Family of which the appellant and other parties referred to earlier are members. There is, of course, no dispute that, if the properties are the properties of the Undivided Hindu Family, respondent No. 1 is the Karta of the said family. It is significant that although respondent No. 1 has contended that the said properties are his private and personal properties yet from 1971-72 to 1985-86 he disclosed these properties in his returns for income-tax as well as wealth-tax as properties belonging to the Hindu Undivided Family of which he is the Karta. He has, of course, offered an explanation that this was done merely under legal advice to save tax. In these circumstances, however, there is a distinct possibility of the said properties being held to be

properties of the said Hindu Undivided Family and a prima facie case has been made out to that effect. If that is the correct position, respondent No. 1 will have only 1/6th share in the said properties or at least substantially less than a half are. By an order dated April 29, 1986 made by the Delhi High Court, respondent No. 1 was restrained from alienating, transferring, parting with possession of, creating any charge or mortgage on or entering into any agreement either to sell or transfer and / or create any encumbrance whatsoever on any of the properties enumerated in Schedules I and II to the plaint. The main contention urged on behalf of the appellant before us is that, in violation of this injunction, respondent No. 1 has disposed of several immovable properties included in the said schedules and a large number of shares of Jaipur Taj Enterprises Ltd. and hence the said properties have to be safeguarded by the appointment of a Receiver. As far as the immovable properties are concerned, it is the case of respondent No. 1 that although he did dispose of some of the immovable properties, these are not properties enumerated in any of the schedules of the plaint but other adjoining properties to which he was personally entitled. It is not possible to determine these controversies here, Apart from this, what is more significant, is that admittedly respondent No. 1 has sold off over six thousand shares of Jaipur Taj Enterprises Ltd. and admittedly at least over two thousand of these shares were included in the said schedules to the plaint. In these circumstances, it appears to us just and convenient, in order to effectively prevent any of the suit properties being dissipated or disposed of and in order to preserve the same, that the suit properties should be placed under the management and control of a person other than respondent No. 1. That would also avoid allegations being made against respondent No. 1 for contempt of court, breach of the injunction and so on and would effectually safeguard the properties.

3. We, therefore, think it is just and proper that the impugned judgments should be set aside and an Administrator appointed in respect of the properties included in Schedules I and II of the plaint and we order accordingly. The Administrator will take charge of the said properties and will ensure that all steps are taken to manage, preserve and safeguard the same. It will be for the Administrator to take effective steps to assume control over the said properties. The Administrator, except to the extent set out herein, will be in the same position as a Receiver of the said properties and shall have the same powers and duties. The Administrator shall take charge of all the suit properties and make a complete inventory thereof.

4. The remuneration of the Administrator shall be Rs. 20,000/- (Rupees Twenty Thousand) per month. This amount may be varied hereafter by the Court taking into account the work involved. He will also be entitled to all out of pocket expenses. It will be open to the Administrator to engage the services of such lawyers, Chartered Accountants, Valuers, Architects and such other Experts or others, as he may consider necessary to assist him. It will be open to the Administrator to open one or more bank accounts in any nationalised bank where the income and receipts of the suit properties can be deposited and from where cheques can be drawn for the necessary purposes.

5. We realise that in view of the complex nature of the work involved, the Administrator may require several other directions from the Court and it will be open to him to make applications to this Court for appropriate directions.

6. Considering the vast extent of the properties involved, which we are informed may be worth several crores of rupees, we are desirous that as far as possible the person appointed as the Administrator should be one in whom the parties have faith and confidence and in these circumstances, we adjourn the case to 22-10-1992 so as to enable the parties to make their suggestions as to who should be appointed as the Administrator, and in case they are unable to agree on any name, we shall nominate a person we consider suitable for the purpose.

7. The appellant will put the Administrator in the requisite funds in the first instance. Further orders for the costs, charges and expenses of the Administrator may be made by the Court hereafter.

8. Appeal allowed as aforesaid. No order as to costs. Order accordingly.

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