

SUPREME COURT OF INDIA

Sawai Bhawani Singh, Brig.

Vs.

Indian Hotels Company Ltd.

C.A.Nos.15083-84 of 1996

(K. Ramaswamy and G. B. Pattanaik, JJ.)

18.11.1996

ORDER

1. Leave granted.

These appeals by special leave arise from the order of the High Court of Rajasthan, Jaipur Bench made on February 4, 1994 in Civil Misc. Appeal Nos. 294/88 and 311/88.

2. The admitted position is that pursuant to an agreement the respondents are alleged to have come into possession of the suit property for running the business of a hotel. It is the case of the respondents that the appellant was unlawfully interfering with their possession and running of the business. On the other hand, it is the case of the appellant that it is his exclusive property and the respondents have no manner of right to come into possession. Consequently, the respondents filed the suit for perpetual injunction restraining the appellant from interfering with their possession and running of the business. Pending suit, both the parties came to file applications. The appellants filed an application under Order 40, Rule 1, CPC for appointment of a Receiver and the respondent filed an application under Order 39, Rule 1 for an ad interim injunction. Though the trial Court had

refused to issue the direction for appointment of Receiver, it had issued an injunction against the respondents restraining them from running the business. But, on appeal the District Court has set aside the direction not to run the business and dismissed the application for appointment of the Receiver which came to be affirmed by the High Court. The High Court has set aside the appointment of the Receiver qua the property. Thus, these appeals by special leave.

3. In view of the fact that the respondents are continuing, as alleged, to be under an agreement, they would obviously act as a custodia legis pending the suit as Receivers on behalf of the Court. But any rights accrued or claimed by them will be subject to the result in the suit. The claim for enhancement of the rentals cannot be gone

@page-SC2184

into in this case and it is dehorsthe relief in the suit. Under these circumstances, if it is permissible, appropriate steps may be taken by the appellant in any appropriate proceedings as per law.

4. With these observations, these appeals are dismissed. No costs.

Appeal dismissed.