

# SUPREME COURT OF INDIA

Percept Advertising Ltd.

Vs.

M. Ravindran, Administrator, Anubhav Plantations Ltd.

(N.S. Hegde and B.P. Singh JJ.)

05.03.2003

## ORDER

1. Heard learned counsel for the parties.
2. The first respondent as an Administrator of a company under winding-up proceedings before the Company Judge had filed Company Application NO. 260/02 in Company Petition No. 130 of 1990 seeking a direction to the petitioner herein to hand-over keys of certain properties which according to the administrator, belonged to the company under winding up. The petitioner herein in the said application contended that it is the bona fide purchaser for valuable consideration of the property in question hence application of the administrator should not be allowed.
3. Learned Company Judge rejecting the contentions of the petitioner herein directed the official liquidator to take custody of the property in question and hand over the keys of the said property to the administrator as also directed the liquidator to arrange to lease out the property by calling tenders and to keep the amounts so realised in a separate account.
4. Against the said order of the Company Judge, the petitioner herein being aggrieved, preferred an appeal to the Appellate Bench of the High Court at Madras in O.S.A. No. 269 of 2002. It is seen from the impugned judgment that the High Court confirmed the directions issued by the learned Single Judge. Based on the consent of parties, it noted in its impugned order. "Learned Counsel for the Appellant as well as the Administrator and the Learned Counsel of the (SIC) appeared today. They agreed for the terms and conditions of the draft least agreement which forms part of this order..."
5. Thus, it is seen that the impugned order is based on the consent of parties.
6. In this special leave petition, Mr. C.A. Sundram, learned senior counsel appearing for the petitioner contended that there was no application form the official liquidator as contemplated under Section 531-A of the Companies Act, and without there being such order as is required under the said Section, the Company Court could not have treated the conveyance of the property in question in favour of the petitioner as being void. He also

contended that without declaring such conveyance as being void, the Company Judge as well as the appellate court could not have dispossessed the petitioner from the property.

7. From the order of the learned Company Judge, we notice that after discussing the material on record he has held that the transactions in favour of the petitioner herein in regard to the property in question do not have any legal sanctity and that the same were entered into one year after institution of the Company Petition, hence, that is liable to be struck down under Section 531-A of the said Act. This finding of the Company Judge may or may not be on an application made by the concerned party under Section 531-A of the Act, but in our opinion, since the lease in question is being granted with a view to preserve the property in question and the learned Company Judge has protected the interests of the parties by directing the Administrator to separately keep the amounts realised from the lease in a separate account, we feel the interest of the petitioner is well-safeguarded. We also notice that the Appellate Court in the impugned order has specifically left open the right of the petitioner to establish its title in separate proceedings. In such circumstances, bearing in mind the fact that the order in question was passed by consent, we do not think this SLP merits any further consideration, hence, the same is dismissed.