

SUPREME COURT OF INDIA

Baranagore Jute Factory Plc.

Vs.

Shreekishan Omprakash

C.A.Nos.2814-2815 of 2015

(M.Y.Eqbal and Amitava Roy JJ.)

12.03.2015

JUDGMENT

M.Y. EQBAL, J.:

1. Leave granted.

2. These appeals by Special Leave have been filed against the impugned order dated 14.8.2014 passed by the Division Bench of the Calcutta High Court in ACO No.38 of 2014 and APOT No. 230 of 2014 in CP. No.2 of 1987. By the impugned order, the Division Bench affirmed the order dated 20.2.2014 passed by the Company Judge in T.A. No. 125 of 2012 on an application filed by the appellant praying for a direction to make over the money deposited with the Registrar, Original Side of the Calcutta High Court in terms of earlier order dated 23.2.2011 together with the interest to the appellant.

3. A perusal of the order dated 20th February, 2014 would show that there are nine applications including one made by a Judges' Summons taken out by M/s. L.P. Agrawalla & Co. praying for directions to make over to the applicant the money lying deposited in terms of the order dated 23rd February, 2011. The Company Judge noticed that the application in which the order dated 23rd February, 2011 was passed is still pending and the application to obtain an order of refund is seriously under challenge in one of the pending nine applications. The Company Judge, therefore, was of the view that the proper course would be to dispose of all the applications in the facts and circumstances of the case.

4. The Division bench while affirming the order passed by the Company Judge observed as under:-

"Considering the amount of deposit which the appellants want to withdraw, and the company's indebtedness to its various creditors and the quantum of its liability, coupled with the facts that even the workers have not been paid their dues, we do not feel it safe to allow a particular group of shareholders, who are described as interloper by the creditors, to withdraw the money deposited with the Registrar, Original Side of this Court without deciding the said issue finally particularly when we find that the appellant/applicant themselves have filed an application being C.A. No.957 of 2010 praying for permanent stay of the company petition No.2 of 1987 which is yet to be decided finally. In the aforesaid context, we do not find any illegality in the impugned order passed by the learned Company Court proposing to dispose of all the pending applications simultaneously."

5. We have heard Mr. Harish N. Salve and Mr. Dushyant Dave, learned senior counsel appearing for the respective appellant. We have also heard Mr. Krishnan Venugopal, Mr. Ajit Kumar Sinha, Mr. Sanjeev Sen, Mr. Amit Sibal and Mr. Huzefa Ahmadi, learned senior counsel appearing for the respondents/intervenors.

6. It has been brought to our notice that the impugned order dated 14.8.2014 was earlier challenged in SLP (C) No.29330 of 2014 (@ SLP CC No.16278/2014). The said Special Leave Petition was dismissed as withdrawn on 27.10.2014 by passing the following order.

"Mr. Ajit Kumar Sinha, learned senior counsel appearing for the petitioner, seeks permission to withdraw this petition with a liberty to move the Company Judge to dispose of the pending matters as expeditiously as possible. Therefore, in view of the fair submission made by the learned senior counsel, we dismiss this special leave petition as withdrawn with a request to the Company Judge to dispose of the pending matters as expeditiously as possible preferably within a period of three months from today."

7. In the facts and circumstances of the case, we are of the opinion that the Company Judge before whom all applications are pending should dispose of the same as expeditiously as possible within a period of two months from today.

8. With the aforesaid direction, appeals are disposed of with no orders as to costs. All interlocutory applications including impleadment petitions also stand disposed of.