

(3) Later on when an application was filed for recalling the said order and extending the time for payment of costs, the same was declined by the impugned order. According to the learned counsel, the costs were paid to the counsel for the respondent but he failed to be present at the time of hearing and, therefore, the Court found that the costs were not therefore, the Court found that the costs were not paid.

(4) Moreover, argued the learned counsel, the provisions of section 35-B, CPC, did not apply to the proceedings under the Indian Succession Act.

(5) After hearing the learned counsel for the petitioner, I am of the considered view that the whole approach of the learned Senior Sub Judge, Faridabad, in this behalf was wholly wrong, illegal and mis-conceived. The application for succession certificate could not be dismissed under section 35-B as such. In any case, when the costs were said to have been paid to the counsel for the respondents, a further date should have been given by the trial Court. It has caused failure of justice by not recalling the said order. Consequently, this revision petition succeeds. Both orders i.e. the impugned order dated February 3, 1988 as well as the order dated August 24, 1987 are set aside on payment of Rs. 100 as costs.

(6) The parties are directed to appear in the Court of Senior Sub Judge, Faridabad on August 23, 1989 for further proceedings in accordance with law on payment of Rs. 100 as costs.

(7) Since the application has been filed in the year 1983, it is directed that the parties will lead their evidence at their own responsibility for which one opportunity will be given to each party.

S.C.K.

Before J. V. Gupta, J.

S. SIKANDER SINGH, SON OF LATE BHAYEE ARDAMAN SINGH, *Petitioner.*

versus

S. A. BUILDERS PVT. LTD. AND ANR.,—*Respondents.*

Civil Revision No. 1375 of 1988.

7th August, 1989.

Civil Procedure Code (V of 1908)—Section 2(10)—Section 55—Judgment Debtor—Definition of—Decree against Company—Arrest of M.D.—Validity of such arrest.

S. Sikander Singh, son of late Bhayee Ardaman Singh v. S. A. Builders Pvt. Ltd. and anr. (J. V. Gupta, J.)

Held, that the decree is against the Company only and not against its officers. The petitioner, therefore, could not be called a Judgment Debtor and arrested in execution thereof.

(Para 4)

Petition under Section 115 C.P.C. for the revision of the order of the Court of Shri G. S. Sewak SJIC, the Chandigarh dated, 27th May, 1988 directing the Ahlmad to send the complete papers with letter to learned District and Sessions Judge, Chandigarh for 20th July, 1988 and conditional warrants be also issued.

CLAIM.—Suit for recovery of 16 lacs (Now execution proceedings).

CLAIM IN REVISION.—For reversal of the order of Lower Court.

M. L. Sarin, Sr. Advocate with Jaishree Thakur, Advocate, for the Petitioner.

JUDGMENT

J. V. Gupta, J.—

(1) This petition is directed against the executing Court dated 27th of May 1988, whereby warrants were issued in pursuance of which the petitioner who happened to be the Managing Director of the Company i.e. judgment debtor known as Bagrian Shoes Limited, was being arrested.

(2) At the time of motion hearing operation of the impugned order was stayed on 8th June, 1988. The decree-holder obtained a decree against the Company known as Bagria Shoes Ltd. In execution of that decree the executing Court passed the impugned order for conditional warrants without naming that against whom the warrants were being issued. However, in pursuance of that order, the petitioner who happened to be the Managing Director of the judgment debtor's company was being arrested.

(3) Learned counsel for the petitioner submitted that the judgment debtor is defined under clause 10 of Section 2 of the Civil Procedure Code and under section 55 of the C.P.C. only the arrest could be made of the judgment debtor. Thus, argued the learned counsel, since the petitioner was not the judgment debtor and it was the company only, he could not be arrested even if he was its Managing Director unless there was a decree against him as well,

(4) After hearing learned counsel, I find merit in the contention raised on behalf of the petitioner. Since the decree is against the company only and not against its officers, the petitioner could not be arrested in execution thereof. Consequently, the petition succeeds, and the impugned order directing issuance of warrants of arrest is set aside.

S.C.K.

Before S. S. Kang & J. S. Sekhon, JJ.

STATE OF HARYANA,—Applicant.

versus

M/S RATTAN OPTICAL WORKS, REWARI,—Respondents.

General Sales Tax Reference No. 22 of 1982.

October 19, 1989.

Punjab General Sales Tax Act, 1948 Schedule A Entry No. 23—“Glass Lenses” and “Glassware”—Meaning of—Assessee manufacturing and selling glass lenses used in Goggles—Lenses for Goggles held to be covered under “Glassware”.

Held, that we have perused the record and find that there is no evidence on the record which may be helpful in determining as to what meanings are given to expressions, “glass lenses” and “glassware” in common parlance. In the absence of such evidence we have to construe these expressions according to dictionary meaning. According to Shorter Oxford Dictionary the expression ‘glassware’ would include all articles made of glass. Since in the present case the dealer has not led any evidence and has brought no material on the record which may help us to determine as to what is understood, in the common parlance by the expression ‘glassware’ or glass lenses, he cannot claim that the lenses for goggles manufactured and sold by him are not included in entry 23 ‘glassware’ because according to dictionary meaning glass lenses for goggles are glassware.

(Para 3)

Reference made by the Sales Tax Tribunal Haryana for opinion of the following questions of law arising out of the order dated 30th October, 1979 passed by the Sales Tax Tribunal, Haryana in S.T.A. No. 318 of 1974-75.

“Whether the facts and circumstances of the case, the optical glass-lenses sold by the firm during the assessment year 1972-73 are covered by entry 23 of Schedule ‘A’ appended to the Punjab General Sales Tax Act, 1948”.

S. C. Mohunta, A.G., (Haryana), S. K. Sood, D.A. with him, for the Petitioners.

H. L. Sarin Senior Advocate, Jaishree Thakur. Advocate with him, for the Respondents.