

F.S. Abdulqayum vs Manindra Land And Building Corpn. Ltd. ... on 16 November, 1954

Equivalent citations: AIR1955ALL192, AIR 1955 ALLAHABAD 192

JUDGMENT

Agarwala, J.

1. This is a judgment-debtor's appeal arising out of execution proceedings. A suit was filed by Manindra Banking Corporation, Ltd., and it was decreed in that name. During the pendency of the suit, however, Manindra Banking Corporation Ltd., changed its name to Manindra Land and Building Corporation, Ltd. A certificate incorporating the company in the altered name was granted to the company.

After the decree, the Company wanted to file an application for execution of the decree by stating its name as "Manindra Banking Corporation, Ltd., now known as Manindra Land and Building Corporation, Ltd." The judgment-debtor raised an objection that since the decree was not passed in the new name, the Company could not execute the same. This objection was overruled and execution was allowed to proceed by the court below. Against that order the judgment-debtor has come up in appeal to this Court.

2. Two points have been raised before us. The first point was the same as was raised in the court below, namely, that the new name not having been entered in the decree, execution could not be carried out in the new name. This objection has no substance. Sub-section (6) of Section 11, Companies Act states:

Section 11. "(6) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name."

The change of name does not, therefore, affect the rights of the Company. The decree in its former name can be executed in the new name which has already been incorporated.

3. The second point raised was that the Company did not obtain the approval of the Central Government to change its name as provided by Sub-section (4) of Section 11, Companies Act. This is a question of fact and it was not raised in the court below as there is no mention of it in the judgment. Learned counsel is unable to say whether in fact the approval of the Central Government was or was not obtained, but in the circumstances we ca(sic) this objection to be raised at this stage.

4. There is no force (sic) this appeal and we dismiss it under Order 41, Rule Civil P. C.