

Govardhandas Narasinghdas Daga And ... vs Union Of India (Uoi) And Ors. on 10 September, 1986

Equivalent citations: AIR1987SC55, [1987]61COMPCAS1(SC), JT1986(1)SC385, 1986(2)SCALE399, (1986)4SCC249, 1986(2)UJ596(SC), AIR 1987 SUPREME COURT 55, (1986) JT 385 (SC), 1986 UJ(SC) 2 596, (1986) 3 SCJ 551, 1986 (4) SCC 249, (1987) 61 COMCAS 1

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Bench: M.M. Dutt, O. Chinnappa Reddy

JUDGMENT

O. Chinnappa Reddy, J.

1. The question raised in this case is whether the Ginning and Pressing Factory of the petitioner which was taken over along with the Textile Undertaking under the provisions of the 'Sick Textile Undertakings' (Taking Over of Management) Act was validly so taken over. The answer to the question depends on whether the Ginning and Pressing Factory could be considered to be part and parcel of the Textile Undertaking or whether it was a totally distinct and separate establishment. The learned Counsel invited our attention to the balance-sheet of the Company for the year 1963 where in the list of the fixed assets of the Company, under each of the heads Land, Factory Buildings, Non-Factory Buildings, Plant and Machinery and Furnitures and Fixtures, the value of the assets was shown separately under the sub-heads Mill and Gin and Press. The learned Counsel also drew our attention to the circumstance that there were separate Provident Fund Schemes for the employees of the Mill and the employees of the Ginning Factory. The separate valuation of Land, Buildings etc. under the sub-heads Mill and Gin and Press may show that the Ginning and Pressing Factory was treated as a distinct department of the Undertaking and not necessarily that it was a distinct and separate establishment. The circumstance that there were separate Provident Fund Schemes may indicate that the Mill and the Gin and Press were probably started on different occasions. From these circumstances only it is not possible to infer that the Gin and Press constituted a separate establishment distinct from the Mill. On the other hand we have the outstanding circumstance that the cotton ginned and pressed was used in the very Mill. We also have the additional circumstances that the supervision and control was common, the salaries of the operative in both were made from the same account and the administrative office and the clerical staff were common. In the view that the Ginning and Pressing Factory was part and parcel of the Textile Undertaking, it is not necessary for us to go into the broader question whether under Section 4(3) of the Sick Textile Undertakings (Taking Over of Management) Act, even a separate and distinct establishment may be taken over as "property, in the ownership, possession, power or

control of the Textile Company". Textile Company itself in defined as the company specified in the third column of the First Schedule as owning the Testing Undertaking specified in the corresponding entry in the second column of that Schedule. Section 4(3) appears to be wide enough to suggest that not only all assets of the Textile Company in relation to the 'Sick Textile Undertakings'but also all properties in the ownership of the Textile Company are to be considered as part of the 'Sick Textile Undertakings'. We do not wish to express any opinion on this question in this case. The Writ Petition is dismissed