

Supreme Court of India

Brig. Sawai Bhawani Singh vs M/S Indian Hotels Company Ltd. & ... on 18 November, 1996

Bench: K. Ramaswamy, G.B. Pattanaik

PETITIONER:

BRIG. SAWAI BHAWANI SINGH

Vs.

RESPONDENT:

M/S INDIAN HOTELS COMPANY LTD. & ORS.

DATE OF JUDGMENT: 18/11/1996

BENCH:

K. RAMASWAMY, G.B. PATTANAIAK

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted.

These appeals by special leave arise from the order of the High Court of Rajasthan, Jaipur Bench made on February 4, 1994 in Civil Misc. Appeal Nos. 294/88 and 311/68.

The admitted position is that pursuant to a agreement the respondent are alleged to have come into possession of the suit property for running the business or a hotel. It is the case of the respondents their possession and running of the business. On the other hand, it is the case of the appellant that it is his exclusive property and the respondents have no manner of right to come into possession. Consequently, the respondents filed the suit for perpetual injunction restraining the appellant from interfering with their possession and running of the business. Pending suit, both the parties came to file applications. The appellants filed an application under Order 40, Rule 1 CPC for appointment of a Receiver and respondent filed an application under Order 39 Rule 1 for an ad interim injunction. Though the trial Court had refused to issue the direction for appointment of Receiver, it had issued an injunction against the respondents restraining them from running the business. But, on appeal, the district Court has set aside the direction to run the business and dismissed the application for appointment of Receiver which came to be affirmed by the High Court. The High Court has set aside the appointment of the Receiver qua the property. Thus, these appeals by special leave.

In view of the fact that the respondents are continuing, as alleged, to be under an agreement, they would obviously act as custodia legis pending the suit as Receivers on behalf of the Court. But any rights accrued or claimed by them will be subject to the result in the suit. The claim for enhancement of the rentals cannot be gone into in this case and it is de hors the relief in the suit. Under these circumstances, if it is permissible, appropriate steps may be taken by the appellant in any appropriate proceedings as per law.

With these observations, these appeals are dismissed. No costs.