

Indian Bank v Greenseas Shipping Co Pte Ltd
[2003] SGHC 83

Case Number : Suit 703/1998, SIC 600059/2003
Decision Date : 09 April 2003
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Yoga Sharmini Yogarajah (Haridass Ho & Partners) for the Plaintiff.; V Ramakrishnan (V Ramakrishnan & Co) for the Defendant.
Parties : Indian Bank — Greenseas Shipping Co Pte Ltd

1 This was an application by the defendant to set aside a judgment in default as well as a winding-up order made consequent to, and on the strength of that judgment. The plaintiff is a bank and the defendant a shipping company, both of which were at all material times carrying on business in Singapore. The plaintiff entered judgment in default of appearance on 20 May 1998 for the sum of US\$3,435,280.02, a debt arising from a loan disbursed under a loan agreement between the parties in 1990.

2 The writ was filed on 9 May 1998 and served on 12 May 1998 at the registered address of the defendant, namely 51 Anson Road #06-53. The defendant was obliged to enter appearance within eight days (inclusive of date of service) namely, 19 May 1998.

3 Mr V Ramakrishnan, counsel for the defendant first sought to argue that the defendant did not know that the writ had been served on them because the registered address was changed by the receiver appointed by the plaintiff. The receiver was appointed on 11 July 1991 and discharged on 10 July 1993. However, Miss Yoga for the plaintiff, drew my attention to the record from the Registry of Companies which shows that the change of the defendant's registered address was made on 3 July 1991, before the receiver was appointed. It was filed by the company secretary Zahabar Ali who was appointed on 2 May 1991 by Karupiah s/o Narayanan, one of the directors of the defendant company.

4 Pursuant to the judgment, the plaintiff obtained an order of court winding-up the defendant on 14 August 1998. In addition to that, the plaintiff sued the seven directors of the defendant company who stood as guarantors for the loan. Three of them, including P Mangalaeswaree, who is presently giving instructions to Mr V Ramakrishnan in this application, did not defend the claim. The remaining four proceeded to trial in Suit 1510, 1511 and 1513 of 1992. Judgment was given in favour of the plaintiff against all of them in 1997.

5 On 6 February 1997 the defendant commenced an action in the New Delhi court against the plaintiff in respect of loss caused by the mismanagement of the company by the receiver appointed by the plaintiff. However the defendant was unable to proceed unless the consent of the Official Receiver in Singapore was obtained. His consent was sought on 2 March 2001, but he declined to give his consent.

6 It is apparent that the stymied action in India was what prompted this application. On the facts, there was no sufficient explanation as to why this application was made so many years after judgment had been entered. Nothing in the affidavit of Mangalaeswaree persuades me that the company or its directors did not know of the writ. In any event, how could it be possible that they did not know that the company was wound up, and a liquidator appointed, on account of the judgment? Thus, nothing on the merits warrant a setting aside of the

judgment and the winding-up order.

7 Finally, this application was taken out without the consent of the liquidator. Mr Ramakrishnan submitted that he had told the liquidator that he will be kept informed. I do not think that this is adequate. The application can only be brought by the liquidator in the name of the defendant. Mangalaeswaree has no *locus standi* to make this application.

For the reasons above, the application was dismissed and costs ordered against P Mangalaeswaree personally.

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