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SLP(C)No. 10812-10813 OF 2003
ITEM No.30

Court No. 4

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.10812-10813/2003

(From the judgement and order dated 10/01/2003 in MA 798/02 and order dated 21.2.2003 in LP A No.15/2003 of The HIGH COURT OF M.P AT GWALIOR)

J.P. SRIVASTAVA & SONS PVT. LTD. & ORS.

Petitioner (s)

VERSUS

M/S. GWALIOR SUGAR CO. LTD. & ORS.

Respondent (s)

(With Appln(s). for bringing LRs on record and transposing respondents as petitioners and permission to submit additional document(s))

Date : 14/07/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE B.P. SINGH

For Petitioner (s)Mr. Tasneem Ahmadi, Adv.
Mr. Santosh Dwivedy, Adv.
Mr. Sudhir Kumar Gupta,Adv.
Mr. Anurag Pandey, Adv.

For Respondent (s)Mr. Gopal Jain, Adv.
Mrs. Rakhi Ray, Adv.
Ms. Bina Gupta,Adv.
Mrs. Vanita Bhargava, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

Heard learned counsel for the parties.

These matters should be remanded back to the High Court to decide the other contentions raised in the appeals.

No opinion is expressed on the merits of other non-decided contentions and leave it to the High Court to decide the same.

Applications which have been filed in these appeals should be transferred to the High Court along with remanded appeals. The appeals are disposed of accordingly in terms of the signed order.

(PAWAN KUMAR) (PREM PRAKASH)
COURT MASTER COURT MASTER
(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.4579-4580 OF 2003
(arising out of SLP(C) Nos.10812-10813 of 2003)

J.P. Srivastava & Sons(Rampur) Pvt. Ltd.& Ors.Appellants

Versus

M/s. Gwalior Sugar Co.Ltd. & Ors.Respondents

O R D E R

Leave granted.

Heard learned counsel for the parties.

These appeals are filed against an order of the learned Single Judge of the Madhya Pradesh High Court wherein he dismissed the appeals filed by the appellants. In the said appeals, the appellants had challenged the order of the Company Law Board dated 12th August, 2002 whereby a learned Member of the Company Law Board had rejected the appellants' challenge to the validity of the notice of the meeting and the resolution passed in the said company meeting. The challenge of the appellants before the High Court was passed on many grounds as could be seen from the impugned order itself. One of the ground was the jurisdiction of a Single Member of the Company Law Board to pass orders in the petitions pending before the Company Law Board.

Learned Single Judge of the High Court who heard the matter negatived the contention of the appellant that a Single Member of the Company Law Board did not have the jurisdiction to decide the issues pending before the Company Law Board. Thereafter, the learned Single Judge without going into the other questions involved in the appeals before him rejected the appeals of the appellants. It is against this order of the learned Single Judge, the present appeals are before us.

The learned counsel appearing for the appellants contended that the challenge to the order of the Company Law Board was made on more than one ground but the High Court decided the appeals only on the question of the jurisdiction of a Single Member of the Board to decide the issues before the Board, and the High Court failed to answer the other contentions raised by the appellants.

While we are in agreement with the finding of the learned Single Judge on the question of the authority of a Single Member of the Company Law Board to decide issues such as one that was involved in these cases before him, we think the learned Single Judge of the High Court ought to have decided the other contentions raised in these appeals also while disposing of the appeals before him. Therefore, we think it appropriate that these matters should be remanded back to the High Court to decide the other contentions raised in the appeals.

We express no opinion on the merits of other non-decided contentions and leave it to the High Court to decide the same.

We also make it clear that on remand the appellants can only argue issues which have not been considered by the learned Single Judge in the impugned order and not the issues pertaining to the jurisdiction of the Single Member of the Company Law Board which issue has already been decided by the High Court.

Applications which has been filed in these appeals, we think it appropriate, should be transferred to the High Court along with remanded appeals. The appeals are disposed of accordingly.

.....J.
(N. SANTOSH HEGDE)

NEW DELHI,
JULY 14, 2003.

.....J.
(B.P. SINGH)