

ITEM NO.25

COURT NO.2

SECTION IVA

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

IA 9/2011 in
Petition(s) for Special Leave to Appeal (Civil) No(s).9643/2009

(From the judgement and order dated 17/03/2009 in MCA No. 1/2005
of The HIGH COURT OF M.P AT GWALIOR)

M/S.J.P.SRIVASTAVA & SONS PVT.LTD. Petitioner(s)

VERSUS

VIKRAM SRIVASTAVA & ORS. Respondent(s)

(for directions and with prayer for interim relief and office report)

Date: 25/04/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Ms. Tasneem Ahmadi, Adv.
Mr. Sudhir Kumar Gupta, Adv.
Mr. Manish Gupta, Adv.

Ms. Bina Gupta, Adv.

For Respondent(s) Mr. C.A. Sundraram, Sr. Adv.
Ms. Bina Gupta, Adv.
Mr. Gopal Jain, Adv.
Mr. Ankur Saigal, Adv.
Ms. Rohini Musa, Adv.
Mr. Zafar Inayat, Adv.

Mr. Gopal Jain, Adv.
Mr. Ankur Saigal, Adv.
Ms. Bina Gupta, Adv.

Mr. R.N. Keshwani ,Adv.
Mr. Ram Lal Roy, Adv.

Ms. Ruby Singh Ahuja, Adv.
Mrs. Manik Karabnjawala, Adv.
Ms. Pragya Ohiri, Adv.

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For M/S. Karanjawala & Co.,Advs.

Mr. Sudhir Kumar Gupta, Adv.

Contd..2/-

UPON hearing counsel the Court made the following

O R D E R

I.A.9 of 2011, has been filed on

behalf of the respondent No.3, M/s. Gwalior Sugar

Company Ltd.for vacation of the interim order

passed by this Court on 4th May, 2009, in SLP(C)No.9643 of 2009, with a direction upon the respondent Nos. 1 and 2 to secure the petitioner's claim by way of a Bank Guarantee of a Nationalised Bank to the satisfaction of the Registrar of this Court. It may be indicated that on 4th May, 2009, while issuing notice, we had passed an interim order restraining the respondents, their servants, agents and assigns from encumbering, alienating, converting any asset of, or land of the applicant company and/or its wholly-owned subsidiary, Gwalior Agricultural Company, until further orders. Liberty was also given to the respondents to apply for variation of the said order upon notice to the petitioner. This application has been filed in terms of the leave granted.

2. From the materials on record, it will appear that by virtue of a consent order, the respondents 1 and 2 had agreed to purchase the ³ shares of the petitioner in the company to enable the petitioner to move out of the company and for the respondents 1 and 2 to take full control thereof. Question had arisen regarding the valuation of the shares and, in fact, the said question is also pending in the connected SLP(C) No.28768 of 2009, filed by the respondents 1&2.

3. Be that as it may, the Company Law Board had by its order dated 18th January, 1999, assessed the value of the shares in question at Rs.6000/- per share which works out to Rs.3.09 Crores in relation to the shares held by the petitioner.

4. It has been the case of the petitioner apart from the assets of the company, as

existed on the date on which the valuation was made, certain lands belonging to the company, which had been declared to be surplus had subsequently been allowed to be retained by the Additional Commissioner by his order dated 3rd February, 1998. It has been submitted on behalf of the petitioners that the valuation of the said lands is also required to be taken into account for the purpose of assessing/computing valuation of the shares.

5. However, considering the fact that this matter has been pending since 2009, and the company has been restrained from alienating or encumbering its properties and other assets, which has adversely affected the running of the business over which the petitioners today have no concern other than obtaining payment for their shares, it will not prejudice any of the parties, if the said interim order is varied or vacated in a manner whereby the interest of the petitioner is protected and the respondents are also able to run the company.

6. Accordingly, we vacate the interim order passed on 4th May, 2009, subject to the respondents 1 and 2 securing the claim of the petitioner in accordance with the valuation made by the Company Law Board by way of a Bank Guarantee of a Nationalised Bank to the satisfaction of the Registrar of this Court. We also make it clear that the respondents will not be entitled to deal with or alienate the properties or lands which were allowed to be retained by the Additional Commissioner by virtue of his order dated 3rd February, 1998, without the leave of the Court.

The Bank Guarantee is to be furnished within

days from date, and is to be kept renewed and valid till the disposal of these Special Leave Petitions.

7. The application stands disposed of
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accordingly.

8. Let these two Special Leave Petition
be listed together for final disposal on 3rd
August, 2011, at the top of the list.

(Sheetal Dhingra)
Court Master

(Juginder Kaur)
Court Master