

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1455 OF 2011

M/S SHEKAR ENTERPRISES

APPELLANT(S)

VERSUS

J.J.EXPORTERS LTD. & ORS.

RESPONDENT(S)

WITH

C.A. No. 1456 of 2011

C.A. No. 1457 of 2011

O R D E R

C.A. No.1457 of 2011:

Learned counsel for the appellant seeks permission to withdraw the civil appeal.

Permission is granted.

The civil appeal is, accordingly, dismissed as withdrawn.

C.A. No.1455 of 2011 and C.A. No.1456 of 2011:

The matters lie within a very narrow compass. On 12th June, 1969 and 12th May, 1972, seven godowns were allotted to Mysore Rubbers Ltd. in order to establish an industry. In an initial round against Mysore Rubbers Ltd., with which we are not immediately concerned, an eviction proceeding was ultimately dropped as rent, which was in arrears, was ultimately paid by the said Mysore Rubbers

Ltd.

On 24th March, 2003, Mysore Rubbers Ltd. amalgamated with J.J. Exports. On 29th March, 2004, the possession of seven godowns were resumed by the Karnataka Small Scale Industries Development Corporation Limited due to non-utilization for a period of 32 years.

Post resumption, on 6th April, 2004, for six of the godowns, four godowns were allotted to M/s Shekhar Enterprises, one of the appellants before us, and two godowns were allotted to Karnataka Enterprises, the other appellant before us; and possession of the said six godowns were handed over shortly thereafter. M/s J.J. Exports filed a writ petition before the High Court challenging the cancellation of licence and resumption of their godowns on 15th April, 2004. By a detailed judgment dated 14th March, 2006, the learned Single Judge dismissed the writ petition stating that the ground of non-utilization was completely proved and that, therefore, both cancellation and resumption were in order. J.J. Exports Ltd. was only given liberty to apply for a fresh allotment.

However, in an appeal filed to the Division Bench of the High Court, the impugned judgment dated 2nd April, 2004 concurred with the learned Single Judge, in that it upheld the cancellation and resumption order insofar as J.J. Exports was concerned. However, the Division Bench went further and quashed the new allotment made for six godowns as aforestated to the two appellants before us.

Considering the plea of the appellants before us, it may not be necessary to go into why the Division Bench quashed the fresh allotment. Learned counsel on behalf of the appellants has argued before us that quashing of allotments in their favour was not part of either the pleadings or the prayer in the writ petition preferred by J.J. Exports against the order of the cancellation and resumption.

Having perused the writ petition and the prayers contained therein, we are of the view that the appellants should succeed on this short ground alone, as it is correct to state that the Division Bench has gone beyond the pleadings as well as the prayer contained in the writ petition.

On this ground, therefore, we set aside that portion of the Division Bench judgment which quashes allotments made in favour of the appellants before us.

The appeals are allowed to the aforesaid extent.

Pending applications, if any, shall also stand disposed of.

.....J.
[ROHINTON FALI NARIMAN]

.....J.
[NAVIN SINHA]

ITEM NO.107

COURT NO.12

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1455/2011

M/S SHEKAR ENTERPRISES

Appellant(s)

VERSUS

J.J.EXPORTERS LTD. & ORS.

Respondent(s)

WITH

C.A. No. 1456/2011 (IV-A)

C.A. No. 1457/2011 (IV-A)

Date : 13-12-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Parties(s)

Mr. Yatindra Singh, Sr. Adv.
Mr. Anand Sanjay M. Nuli, Adv.
Mr. Dharm Singh, Adv.
Mr. Suraj Kaushik, Adv.
for M/S. Nuli & Nuli, AOR

Mr. Raghavendra S. Srivatsa, AOR
Mr. Venkith Pubramoniam, Adv.
Mr. Gouthan Shvankar, Adv.

Mrs. Vannita Bhargava, Adv.
Mr. Ajay Bhargava, Adv.
Mr. Rony-O-John, Adv.
Ms. Ashijaar Bairagi, Adv.
for M/S. Khaitan & Co., AOR

Mr. P. R. Ramasesh, AOR
Mr. Abdul Azeem Kalebudde, Adv.

Ms. Anjana Chandrashekar, AOR

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

C.A. No.1457 of 2011:

The civil appeal is, accordingly, dismissed as
withdrawn in terms of the signed order.

C.A. No.1455 of 2011 and C.A. No.1456 of 2011:

The appeals are allowed in terms of the signed order.

Pending applications, if any, shall also stand disposed of.

(SWETA DHYANI)
SENIOR PERSONAL ASSISTANT

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)