

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. 1508 OF 1999.

Samarendra Nath Basu
Appellant (s)

App

Versus

M/s. Dooars Assam Union Tea Co. Ltd.
Respondent (s)
& Ors.

Respo

(With appl(s) for addition of parties in the array of parties and substitution of L.Rs. Of the deceased respondent and directions/disposal of appeal and release/discharge of the administrator and direction/deletion of the name of RR 2-4 and 8 and with office report)

Date: 10/08/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN
HON'BLE MR. JUSTICE S.B. SINHA

For Appellant(s)

Mr. Krishna Kumar, Adv.

For Respondent(s) Mr. Dipankar P. Gupta, Sr. Adv.
For Administrator Mrs. Sumita Ray, Adv.

Mr. N. Ganpathy, Adv.

Mr. Rana Mukerhee, Adv.
Mr. Siddharth Gautam, Adv.
Mr. Suchit Mohanty, Adv. For
Mr. Goodwill Indeevar, Adv.

Mr. Rathin Das, Adv.

Mr. Hari Shankar K., Adv.

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

I.A. No.2 for addition of parties is dismissed.

The applications for substitution to bring on record the L.Rs. Respondent No.16 and deletion of Respondent Nos. 2,3,4 and 8 are allowed.

The appeal stands disposed of in terms of the signed order.

All applications stand disposed of.

(J.S. Rawat)
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Court Master
Master

(Kanwal Sin
Court

[Signed order is placed on the file].

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

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O R D E R

Counsel for the respondents in terms of the instructions received

by him in writing, states that his client is not interested in pursuing the

application filed under Sections 397 and 398 of the Companies Act in the

High Court of Calcutta and the proceedings be dropped. In terms of the

prayer made by the counsel for the respondents, the application filed under

Sections 397 and 398 of the Companies Act are dismissed. As a

consequence of this, the order passed by the High Court is also set aside.

Under order dated 23.8.1999 Justice Mrs. Manjula Bose, a retired

Judge of the Calcutta High Court, was appointed as the Administrator of the

tea gardens belonging to the Company, and her remuneration was fixed at

Rs.50,000/- per month. She was allowed to appoint such persons, including

that of the guarantors, as she may think proper in discharge of her duties.

Accordingly, she appointed Sri Anik Pal Choudhury as her Joint Representative and Sri Ganesh Mahapatra as Clerk to assist her in discharging her duties as the Administrator. She drew the remuneration till 30th of June, 2001.

I.A. No.10/2004 was filed on 28th April, 2004 by the Administrator seeking her discharge/release from continuing as Administrator of the Company on health grounds upon such terms as deemed fit and proper by this Court.

On the aforesaid IA, this Court on 12th October, 2004 passed the following order:

"All the learned counsel for the parties appearing and present before the Court are agreeable that the best way of resolving the controversy surviving for decision is to discharge the Administrator and handover the administration of the company to a Board of Directors duly elected in General Meeting.

It is directed that -(i) the Administrator Justice (Retd.) Ms. Manjula Bose assisted by Shri Anik Pal Choudhary shall hold General Meeting of the Company for electing the Board of Directors; (ii) the shareholding to the extent of 8.10 per cent which stood in the name of late Brojendra Chandra Das is disputed and proceedings and in that regard are pending in a writ petition before the Calcutta High Court. These shareholders to the extent of 8.10 per cent shall be excluded from participating in the General Meeting; and (iii) the proceedings of the General Meeting as soon as held shall be brought to the notice of this Court."

Pursuant to the aforesaid order, General Meeting of the company was held and the Administrator handed over the charge to the newly elected Board of Directors on 30th November, 2004. Her prayer for discharge / release from continuing as Administrator of the Company is allowed.

As a statement has been made on behalf of Mr. Samarendra Nath

Basu, the appellant herein, that he does not want any remuneration claimed

in the statement of outstanding, the only question which remains to be

settled is regarding the remuneration to be paid to (i) Administrator (ii) Shri

Anik Pal Choudhury, Joint Representative and (iii) Shri Ganesh Mahapatra,

Clerk employed by the Administrator to assist her for discharging her duties.

A statement of outstanding remuneration of the Administrator

Joint Representatives and Clerk as on February, 2004 has been filed, which

is as follows:

Statement of outstanding Remuneration of
Administrator, Joint Representatives and Clerk as on February 2004

Ms. Monjula Bose			
Remuneration Rs.50,000/-p.m.	July 2001 to March 2002	9 months	250,000.00
	April 2002 to March 2003	12 months	600,000.00
	April 2003 to February 2004	11	
		months	550
00.00	1,600.000.00		,0
		32 months	
Mr. anik Pal Chaudhuri			
Remuneration Rs.15,000/-p.m.	June 2001 to March 2002	10 months	200.000.00
Car Allowance Rs.5,000/-p.m.	April 2002 to March 2003	12 months	240.000.00
Total Rs.20,000/-p.m.	April 2003 to February 2004	11 months	220.000.00
660.000.00		33 months	
Mr. Samarendra Nath Basu			
Remuneration Rs.15,000/- pm	November 2001 to March 2002	5 months	75,000.00
	April 2002 to March 2003	12 months	180,000.00
	April 2003 to February 2004	11 months	165,000.00
420,000.00		28 months	
Mr. Ganesh Mahapatra			
Remuneration Rs.2,000/-p.m.	July 2001 to February 2004	32 months	64,000.00
64,000.00			
otal	2,744,000.00		T

Counsel appearing for the parties left it to the discretion of the

Court to fix the remuneration keeping in view the financial state of affairs of

the Company which, according to the counsel, has already incurred

cumulative loss to the tune of Rs. 116 lakhs. A prayer has been made on behalf of the Company that the Company be allowed to pay the amount in instalments spread over a period.

Taking an over all view of the situation and the financial health of the Company, we direct that Justice Mrs. Manjula Bose be paid Rs. 8 lakhs instead of Rs.16 lakhs. Similarly, Shri Anik Pal Choudhury be paid Rs.3,30,000/- and Shri Ganesh Mahapatra be paid the sum of Rs.64,000/-, as claimed.

The total sum payable comes to Rs.11,94,000/-. We direct that

Ganesh Mahapatra be paid the amount of Rs.64,000/- within a month and the remaining amount of Rs.11,30,000/- shall be paid in 11 instalments, i.e., 10 equal instalments of Rs.1,00,000/- each and the 11th instalment of Rs.1,30,000/- beginning from 15th September, 2005. The amount of instalments shall be divided amongst the Administrator and the Joint Representative in proportion to their respective remuneration, as fixed above. I.A. No. 10 is disposed of accordingly.

The appeal stands disposed of accordingly.

.....J.
(ASHOK BHAN)

New Delhi;
August 10, 2005.

.....J
(S.B. SINHA)