
(1988) 05 P&H CK 0095
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 458 of 1987

Central Bank of India

APPELLANT

Vs

Sunder Lal and Others

RESPONDENT

Date of Decision : 27-05-1988

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 38 Rule 5, 10

Citation : (1988) 05 P&H CK 0095

Hon'ble Judges : G.R. Majithia, J

Bench : Single Bench

Judgement

G.R. Majithia, J.—The Petitioner - bank filed two suits No. 53 and 54 of 1982 for recovery of Rs. 2,12,668.69 and Rs. 2,68,369.15 against Messrs. Anoop Singh Sunder Lai and others and Messrs. Bhushan Tin Industries and others, respectively. The advances in the two suits were made inter alia, on the security of hypothecated and pledged goods.

2. During the pendency of the two suits, the Defendants/Respondents started lifting the hypothecated stock. The Petitioner then filed a suit for permanent injunction claiming the following reliefs:

(i) That the Defendants be restrained from interfering with the rights and title of the Plaintiff- Petitioner bank in the hypothecates stocks;

(ii) That the Defendants be restrained from removing the hypothecated stocks from the factory premises;

(iii) That the Defendants be restrained from interfering with the Petitioners in removing the goods from Factory premises into safer custody.

Along with the suit, application Under Order 38, Rule 5 and Order 39 Rule 1 & 2 CPC were also filed. The Additional District Judge, Rohtak, entertained the suit due to the summer vacation, and on July 10, 1982, issued ad interim injunction appointed a Local Commissioner to prepare an inventory of hypothecated stock.

After the issuance of the Defendants/Respondents lifted the stock thereby necessitating the filing of an application Under Order 39, Rule 2-A Code of Civil Procedure, which was filed on February 14, 1983.

3. In the suit for injunction (Suit No. 306/1982), an application u/s 10 Code of Civil Procedure, was filed by the Respondents for staying further proceedings in the suit till the decision of the previously instituted suits (No. 53 and 54 of 1st February, 1982). The learned Senior Sub Judge, Rohtak, allowed the application u/s 10, Code of Civil Procedure, with the following observations:

Under these circumstances, I hereby order the stay of this suit u/s 10 Code of Civil Procedure. This suit shall be taken up at the request of the parties after the previously instituted suits No. 53 and 54 of 1982 have been decided. The application Under Order 39 Rule 2-A CPC shall also be stayed till then.

4. The proceedings Under Order 39, Rule 2-A, Code of Civil Procedure, are independent proceedings, and are in the nature of contempt proceedings. The Petitioner - bank has alleged that the order of the Additional District Judge dated July Order 1982, granting ad interim injunction has been violated. Neither in law nor on equity, was it proper to stay the proceedings arising out of the application Under Order 39, Rule 2-A Code of Civil Procedure. The order under challenge is set aside to the extent it has stayed the proceedings Under Order 39 Rule 2-A Code of Civil Procedure, The learned Senior Sub Judge is directed to dispose of the proceedings Under Order 39, Rule 2-A Code of Civil Procedure, within three months from today. No order as to costs.