

(1992) 02 SC CK 0033

In the Supreme Court Of India

Case No : Civil Appeal No. 448 of 1992 (arising out of Spl. Leave Petition (C) No. 15794 of 1991)

Chanumolu Nirmala and others

APPELLANT

Vs

Ch. Indira Devi and another

RESPONDENT

Date of Decision : 03-02-1992

Acts Referred:

Citation : AIR 1994 SC 662 : (1995) 4 SCC 531 Supp

Hon'ble Judges : R. M. Sahai, J;G. N. Ray, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted.

2. We have heard learned Counsel for parties.

3.The appeal is directed against direction of the High Court to handover rice mill in dispute to receiver as directed by the trial Court. It is necessary to mention that in the suit filed by the respondent an application for appointment of receiver of the rice mill was allowed. It was set aside by the High Court subject to the conditions that the appellant kept on paying installment to the Financial Corporation and an amount of Rs. 500/-p.m. to the respondent. Since there was default in payment of installments to the Corporation the impugned order was passed. Its operation was stayed by this Court and the appellant was directed to pay the installments of the Corporation.

4. An affidavit has been filed by the appellant today that the amount of Corporation, as directed by this Court has been paid. The only amount that remains due is penal interest but its waiver, is under consideration of the Corporation. In support of it he has filed a letter of the Corporation which is filed as annexure with the affidavit. As regards the amount of the respondent the learned Counsel for the respondent stated that it has not been paid since September 1991. But Shri Choudhary fairly stated that it has not been paid since

August 1991 The amount of Rs. 500/- had been enhanced by the High Court to Rs. 600/-. On our suggestion Shri Choudhary after taking instructions from his client who was present in the Court stated that he was willing to pay Rs. 750/- p.m. from August 1991. He agreed to deposit the amount today. In the circumstances, we do not find any merit in the submission of the ' learned Counsel Shri Rao for the respondent that the order of the High Court directing handing over of the Mill to receiver should not be interfered. In our opinion running of the Mill, in the circumstances of this case by the family member, subject to the decision of the suit, shall be just and proper. Moreover the High Court had vacated its order because of the default in payment of installment to the Corporation. Since that has been complied with we do not think it would be in interest of justice to maintain the order of High Court.

4. The appeal is accordingly decided by directing that the receiver shall hand over possession of the Mill to the appellant within three days from the date the appellant deposits the amount of maintenance of respondent to be calculated at the rate of Rs. 750/-p.m.from August 1991 to 31st Jan. 1992 in the trial Court. The respondent shall be at liberty to withdraw the same. The appellant shall keep on paying Rs. 750/-p.m. to the respondent from Feb., 1992 month by month during pendency of the suit.

5. The trial Court may endeavour to, dispose of the suit expeditiously.

6. Parties shall bear their own costs.