
(2018) 09 DEL CK 0396

In the Delhi High Court

Case No : First Appeal From Order (Os) (Comm) 212, 213 Of 2018

M/S The Rameshwara Jute Mills Limited

APPELLANT

Vs

M/S Universal Cables Limited & Ors

RESPONDENT

Date of Decision : 27-09-2018

Acts Referred:

Code of Civil Procedure, 1908 — 39 Rules 1, Order 39 Rules 2, Order 7 Rule 11

Citation : (2018) 09 DEL CK 0396

Hon'ble Judges : G.S.Sistani, J; Sangita Dhingra Sehgal, J

Bench : Division Bench

Advocate : Rajeev Virmani, Neeraj Chaudhari, Saakshi Agrawal, Akash Sharma, P. Chidambaram, Kanika Singh, Megha Gupta, Sangram Singh

Final Decision : Disposed Off

Judgement

1. The present appeals are directed against the order passed by the learned Single Judge dated 16.11.2015. While entertaining this appeal on

18.11.2015, the following interim order was passed:-

“It is for these reasons that insofar as the 2,705,553 additional shares are concerned, status quo shall be maintained with regard to them as of

today. Insofar as the 8,859,574 shares are concerned which fall under categories A and B, there is no dispute at this stage.

We are making it clear that the order passed by us today would be subject to the final orders that would be passed in appeal.”

2. Thereafter the present appeals were disposed of when the following orders were passed on 19.01.2017:-

“We have heard the learned counsel for the parties at great length. We are informed that the plaint has been amended on 11.02.2016. When the

impugned order was passed it was on the basis of the original plaint. We are

further informed that the appellants herein, who are the plaintiffs in the two suits, have filed the applications under Order 39 Rules 1&2 CPC which are now pending before the learned Single Judge and are slated to be heard on 25.01.2017. The learned counsel for the respondents also points out that they have also moved composite applications in both the suits, one each, under Order 7 Rule 10 and Order 7 Rule 11 CPC for return of the plaint and/or rejection of the plaint. Those applications are also listed on 25.01.2017.

On the first date, on which these appeals came up before us, we had passed an interim order directing that status quo be maintained in respect of 2,705,553 additional shares of Universal Cables Limited as of that date. With regard to the shares which fell in the category A and B, we had recorded that there was no dispute at that stage.

The said order has continued till today.

We are of the view that since the plaint has been amended and the entire issue of grant or non-grant of interim orders as also the issue of whether the plaint is to be returned or rejected is under consideration of the learned Single Judge, the same ought to be considered by the learned Single Judge independent of the impugned order and the interim order that we have passed. But, to have continuity in the matter, we are directing that the interim order shall continue till 25.01.2017 or if, for any reason the learned Single Judge is not available on that date, then, till the first date of hearing thereafter. On which date, it shall be open to the learned Single Judge to pass any appropriate order whether continuing or dis-continuing or modifying the interim order that we have passed. We are making it clear that we have not expressed any opinion on the merits of the matter and the learned Single Judge would take a call independent of anything that has transpired before the learned Single Judge and/or this Bench. We are making it clear that the interim order granted by us would cease to operate on the first date on which the learned Single Judge takes up the matter and he shall independently pass an order whether continuing the order, discontinuing it, modifying or passing any other suitable order.

The appeals stand disposed of accordingly. All pending applications also stand disposed of.â??

3. In terms of the order dated 19.01.2017 the matter was remanded to the

learned Single Judge, however, in the meanwhile the order of the Division Bench was assailed by the respondent herein by filing the Civil Appeal No. 5109/2017 arising out of S.L.P(C) No. 6365/2017. The Supreme Court of India by an order dated 07.04.2017 remanded the matter back to the Division Bench of this court for fresh hearing. Meanwhile it is not disputed before us that the appellants (plaintiffs before the learned Single Judge) had sought amendment to the plaint which amendment has been granted. The additional documents filed by the plaintiff on which reliance is placed have also been placed on record before the learned Single Judge. Fresh applications under Order XXXIX Rules 1&2 CPC are also pending before the learned Single Judge. The grievance of the respondents before the Apex Court was the continuation of the stay order passed by the Division Bench in this appeal pending disposal and fresh hearing of an application filed by the appellant before the learned Single Judge. The matter after being released by another Division Bench has taken up for hearing before this court on 26.09.2018.

4. With the consent of the counsels for the parties, all the appeals are being disposed of with the following consent order:-

i. The allotment of equity shares made pursuant to the Rights issue undertaken by Universal cables Ltd., in terms of letter of Offer dated 14.09.2015,

shall be subject to outcome of the applications under order XXXIX Rule 1 & 2 being I.A. Nos. 26210/2015 and 26217/2015 in CS (Comm) No.

800/2017 and CS (Comm) No. 801/2017 respectively, pending before learned Single Judge and final order passed therein.

ii. The respondent " Universal Cables Limited undertake that all the allottees under the Rights issue impugned in the two suits mentioned above shall

be duly informed by the respondent, under due acknowledgment, of the allotment and the actions taken pursuant thereto being subject to outcome of

the applications under Order XXXIX Rules 1&2 CPC and that the allottees shall not claim special equity in their favour.

iii. The number of share allotted to Sh. H. V. Lodha out of 2,705,553 shall not be dealt with, alienated or disposed of pursuant to the impugned Rights

issue till orders are passed in the application under Order XXXIX Rules 1&2 CPC or without express leave of the learned Single Judge.

iv. The learned Single Judge be requested to take up all pending applications and

decide in accordance with law without being influenced by any observations or findings recorded in the impugned order dated 16.11.2015.

v. The order dated 18.11.2015 would stand modified in terms of the settlement and order passed today.

5. During the course of hearing Mr Rajiv Nayar and Mr Rajeev Virmani, learned senior counsels have submitted that this arrangement should bind the

Mr. H.V. Lodha Associates and the promoters / promoter groups as well. Mr Chidambaram, learned senior counsel submits on instructions that they

do not represent the Mr. H.V. Lodha Associates or the promoters / promoter groups nor are they parties to the lis and hence they would not be in a

position to accord their consent to bind them.

6. In view of the arrangement arrived at mutually with the consent of the parties on instructions, both the appeals are disposed of. We request the

learned Single Judge to decide all the pending application as expeditiously as possible Both the parties agree to cooperate with the learned Single Judge

and would not seek unnecessary adjournment. Before parting with the appeals we also grant leave and liberty to the appellants to approach the

learned Single Judge in case the promoters / promoter groups and Mr. H.V. Lodha Associates sell, alienate, transfer the additional shares granted t

them and it would be open for the learned Single Judge to pass such orders as deem fit. In case the company receives a request for recording transfer

of additional shares by one of the aforesaid entities before carrying out such transfer the company will inform the appellants (plaintiffs before the

learned Single Judge) before effecting transfer.

7. At the request of the learned senior counsels appearing for the parties, FAO(OS) 294/2017 and FAO(OS) 295/2017 are also called to court.

Registry is directed to list the appeals. Counsels for the parties agree that both the appeals may be disposed of in the light of the order passed in

appeal Nos. FAO(OS) (COMM) 212/2018 and FAO(OS) (COMM) 213/2018. A copy of the order so passed today shall also be placed on record of

the file of FAO(OS) 294/2017 and FAO(OS) 295/2017.

8. We appreciate the sincere efforts put in by all the respective counsels for disposal of all these appeals.

9. It is agreed that the arrangement arrived at in court today and the order so passed will be circulated amongst all the share holders.