
(2004) 01 JH CK 0035
In the Jharkhand High Court
Case No : Civil Review No. 22 of 2002

Surjit Singh Malik

APPELLANT

Vs

Asiatic Oxygen Ltd. and Others

RESPONDENT

Date of Decision : 08-01-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 14 Rule 2, Order 39 Rule 1, Order 39 Rule 2, Order 41 Rule 11, Order 43 Rule 1

Citation : (2005) 1 JCR 255

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : Mihir Kumar Jha and Mukesh Kumar Sinha, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Guru Sharan Sharma, J.—Heard. This application has been filed to review the order dated 20.9.2001 passed by this Court in M.A. No. 208 of 2000, whereby the said appeal was disposed of with certain observation.

2. The said appeal was filed under Order XLIII Rule 1 of the Code of Civil Procedure, challenging the order dated 23.9.2000, whereby prayer for interim injunction made in Title Suit No. 63 of 2000 was rejected with following observation : If at all any wrong will be found, the party or parties having grievances will be redressed at the time of final adjudication of the suit and this order passed on the point of injunction will not affect final adjudication after full trial. All the defendants have as yet not filed their written statements."

3. At the stage of hearing under Order XLI, Rule 11 of the CPC the counsel for the appellant as well as the respondents 1 and 9 were present and the appeal was disposed of on 20.9.2001.

4. This Court did not interfere with the order impugned in the said appeal. However, since the prayer for interim order was disposed of in the aforesaid

manner at the stage, when all the defendants had not even filed written statements and there was serious objection to the maintainability of the suit, this Court observed that the defendants were at liberty to file a petition under Order XIV, Rule 2 at the appropriate stage and after disposal thereof, if so advised, the plaintiffs may file a fresh application for interim injunction, which may be considered and disposed of in accordance with law without being prejudiced by the earlier order dated 23.11.2000.

5. The aforesaid liberty was given to the plaintiffs only after the suit was tested under Order XIV, Rule 2 and was found maintainable.

6. I do not find any substance in the submission of Mr. Jha, counsel for the petitioner that such liberty could have been given to the plaintiffs only after giving notice and hearing the petitioner herein, who was the defendant No. 2 in the suit and the prayer for interim injunction related to his office as Managing Director of the Company, as in my opinion, no prejudice was caused to him by the said direction. No case has been made out for review. I, therefore, find no ground for reviewing of the said order dated 20.9.2001. This review application is dismissed.