

NATIONAL TEXTILE CORPORATION (U.P.) LTD. ETC.

A

v.

SWADESHI COTTON MILLS CO. LTD AND ORS. ETC.

OCTOBER 23, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

B

*Suit—Pending before Civil Court—Supreme Court's order for payment of a certain sum per month—Not meant to be rent—To be adjusted as per final order in the proceedings arising out of the suit—Withdrawal by the other party—Subject to certain conditions and subject to adjustment as per orders of the Civil Court in the pending suit—Directions issued.*

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 14412 of 1996 Etc.

From the Judgment and Order dated 14.5.96 of the Allahabad High Court in F.A. No. 549 of 1995.

D

V.R. Reddy, Additional Solicitor General, Nikhil Nayar and T.V.S.N. Chari for the Appellants.

O.P. Rana, Sudhir Chandra Agarwal, Rakesh U. Upadhyay and Satish Vig for the Respondents.

E

The following Order of the Court was delivered :

Delay condoned.

F

Leave granted.

We have heard learned counsel on both sides.

These appeals by special leave arise from the orders passed by the Division Bench of the Allahabad High Court dated May 14, 1996. It is not necessary to traverse the entire controversy. Suffice it to state that pursuant to the orders passed by this Court on July 13, 1987, the appellants have been depositing @ Rs. 25,000 p.m. on and before 10th of every month from that date. This was further clarified by the order of this Court dated July 12, 1988 wherein this Court has stated that :

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- A "We direct further that as regards the terms of the Order dated 13th July 1987 made by this Court directing the petitioner to deposit a sum of Rs. 25,000 per month, the petitioner shall make such deposit in a schedule bank to the credit of an interest earning account opened in the name of the first respondent but it will not be open to the first respondent to withdraw any amount from such account without the prior order of the Court."
- B

When a clarification was sought for, this Court by order dated October 7, 1996 clarified in I.A. No.3/96 as under :

- C "It is clarified that the amount of Rs. 25,000 which is required to be deposited by the petitioner in pursuance of the directions contained in the order dated July 13, 1987 and July 12, 1988 was not meant to be the rent for the part of the premises in the occupation of the petitioner and that the said amount is to be adjusted as per the final order that is passed in the proceedings arising out of the suit."
- D

- E In view of the direction issued by this Court, the respondent would be entitled to withdraw the amount from the account with the permission of the orders of the Court but such withdrawal would be subject to adjustment as per the final order that may be passed by the Civil Court in the pending suit. The High Court in the impugned order has directed the respondent to withdraw the amount on furnishing bank guarantee as indicated in the order as under :

- F "Respondent No. 11 to 14 shall be allowed to withdraw the amount deposited by the plaintiff-appellant in terms of the orders passed by Hon'ble Supreme Court on 13.7.1987 and 12.7.1988 after they furnish a bank guarantee to the extent of the amount lying in deposit and an additional guarantee to the extent of 10% of the aforesaid amount. The bank guarantee shall be of a nationalised bank and will be furnished to the satisfaction of Civil Judge, Kanpur Nagar. The order for acceptance of bank guarantee shall be passed after giving an opportunity of hearing to the plaintiff-appellant."
- G

- H Such withdrawal, as clarified by this Court, will be subject to the result in the appeal and subject to the adjustment as per the orders of the

civil Court in the pending suit. In the event of the appellant succeeding in the appeal arising out of the suit orders passed by the civil Court, the withdrawal will be subject to the orders that may be passed therein. A

The appeals are accordingly disposed of. No costs.

G.N.

Appeals disposed of. B