

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.10837-10838 OF 2024
(Arising out of SLP (C) Nos.22064-22065/2024 @ D.No.27915/2022)

M/S LUDHIANA FIBRES LIMITED

... APPELLANT

Versus

M/S L. ROBESON AND CO. LTD. & ORS.

... RESPONDENTS

O R D E R

1. Delay condoned.

2. Leave granted.

3. The challenge in these appeals is to the judgment and order dated 17.05.2018 and 08.07.2022, passed by the High Court of Punjab and Haryana at Chandigarh in the Regular Second Appeal and the Review Application. The High Court has, through these orders, upheld the order of the Executing Court whereby the money decree in favour of the appellant was directed to be satisfied by paying the due amount in Indian currency and not in pound sterling.

4. The appellant-an Indian Company entered into various business transactions while dealing in yarns and manufacturing of yarn and rags with respondent No.1 - Ms. L. Robeson and Co. Ltd., based in the U.K. There was an insurance contract, imposing liability on the Insurance Company, i.e., M/s Corn Hill Insurance Marine Department (respondent No.3 herein), a U.K. Company. Respondent No.4 - M/s Tata Tea Limited was impleaded as the alleged India-

based agent of M/s Corn Hill Insurance Marine Department. This fact is strongly refuted by learned counsel for respondent No.4, as according to him, M/s Tata Tea Limited was never an authorized agent of M/s Corn Hill Insurance Marine Department and/or any successor company thereof.

5. The suit filed by the appellant was decreed. The money decree has attained finality. In the course of execution, the question arose - who is liable to pay the decretal amount and whether such amount is payable in Indian currency or pound sterling? The Executing Court declined to pass the money decree in pound sterling, but converted the same into Indian currency, as according to it, the payment of the money decree in pound sterling could be contrary to the provisions of the Foreign Exchange Regulation Act, 1973.

6. The above-mentioned order of the Executing Court has been upheld by the High Court vide impugned judgments and orders dated 17.05.2018 and 08.07.2022.

7. In these proceedings, the herculean task has been to effect service on respondent No.3. The matter has been pending for more than two years to await service on that Company. The appellant has now moved an application, *inter alia*, suggesting that respondent No.3 - M/s Corn Hill Insurance merged with Allianz Insurance plc., with its registered office in U.K. It is claimed that the Allianz Insurance plc. is effectively present in India through its subsidiary called - Allianz Commercial, Office #66, 3-North Avenue, Maker Maxity, Bandra Kurla Complex, Mumbai, Maharashtra - 400051.

8. We have heard learned counsel for the appellant and learned counsel for respondent No.4 and have gone through the records.

9. The following questions essentially being of facts, are required to be determined based on minimal evidence, etc.: (i) Whether respondent No.3 - M/s Corn Hill Insurance has merged with Allianz Insurance plc?; (ii) Whether Allianz Commercial - an India-based Company is a sister concern or a subsidiary of Allianz Insurance plc?; (iii) What is the liability on respondent No.3 - M/s Corn Hill Insurance and whether such liability can be transferred to Allianz Insurance plc and/or its subsidiary or sister concern in India?; (iv) Whether M/s Tata Tea Limited-respondent No.4 was the India-based agent of M/s Corn Hill Insurance and whether the appellant can have any claim arising against M/s Tata Tea Limited?; and (v) Whether the payment is to be made in Indian rupee or pound sterling?

10. We do not deem it appropriate to undertake such an intensive factual exercise, which would foreclose the rights of the affected parties to avail the remedy of an appellate forum.

11. In light of the changed circumstances pleaded by the appellant, we deem it appropriate to set aside the order dated 08.09.2010, passed by the Additional District Judge, Ludhiana, Punjab, the judgment dated 17.05.2018, and the order dated 08.07.2022 passed by the High Court in the Regular Second Appeal and the Review Application, respectively.

12. Consequently, the matter is remitted to the Court of Additional District Judge at Ludhiana, Punjab to determine the

above-mentioned questions and proceed further in accordance with the law.

13. It is clarified that we have not expressed any opinion on the merits of the claim of the appellant. Similarly, the objection raised by respondent No.4 - M/s Tata Tea Limited is also kept alive and shall be determined after hearing the parties.

14. All other issues that may arise during the course of execution proceedings may also be looked into by the Executing Court.

15. The appeals stand disposed of in the above terms.

16. As a result, the pending interlocutory applications also stand disposed of.

.....J.
(SURYA KANT)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
SEPTEMBER 20, 2024.

ITEM NO.29

COURT NO.4

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL)Diary No(s).27915/2022

(Arising out of impugned final judgment and order dated 17-05-2018 in RSA No.609/2011 and order dated 08-07-2022 in RARS No.75/2018 passed by the High Court of Punjab & Haryana at Chandigarh)

M/S LUDHIANA FIBRES LIMITED**Petitioner(s)****VERSUS****M/S L. ROBESON AND CO. LTD. & ORS.****Respondent(s)****IA No.195602/2024 - CLARIFICATION/DIRECTION****IA No.142579/2022 - CONDONATION OF DELAY IN FILING****IA No.74043/2024 - CONDONATION OF DELAY IN FILING**

IA No.159349/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 20-09-2024 These matters were called on for hearing today.

CORAM :**HON'BLE MR. JUSTICE SURYA KANT****HON'BLE MR. JUSTICE UJJAL BHUYAN**

For Petitioner(s) Mr. Rohit Sharma, Adv.
 Mr. Jatin Lalwani, Adv.
 Mr. Nikhil Purohit, Adv.
 Mr. Jay Rawat, Adv.
 Mr. Kumar Dushyant Singh, AOR

For Respondent(s) Mr. Amit Dhupar, Adv.
 Mr. Anant Kumar, Adv.
 Mr. Dharmendra Kumar Sinha, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.**Leave granted.**

The appeals stand disposed of in terms of the signed order.

As a result, the pending interlocutory applications also stand disposed of.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI T.C.)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

