



2024:UHC:8556-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE MR. MANOJ
KUMAR TIWARI

AND

HON'BLE SRI JUSTICE VIVEK BHARTI SHARMA
19TH NOVEMBER, 2024

A.O. NO. 454 OF 2024

Kamaldeep Industries (Micro Small & Medium
Enterprises registered) Appellant

Versus

Dhanashree Agro Products Pvt. Ltd. and others.
.....Respondents

Counsel for the appellant	:	Mr. D.S. Patni, learned Senior Counsel assisted by Mr. Dharmendra Barthwal, learned counsel.
Counsel for the respondents	:	Ms. Puja Banga, learned Brief Holder for the State. Mr. Sagar Kothari, learned counsel for respondent Nos. 1 to 5. Mr. Aditya Pratap Singh, learned counsel for respondent No. 9.

JUDGMENT : (per Mr. Manoj Kumar Tiwari, A.C.J.)

This is plaintiff's appeal under Section under Section 13 (1-A) of Commercial Courts Act, 2015 challenging the order dated 26.10.2024, passed by learned Additional District Judge (Commercial Court), Dehradun in O.S. No. 174 of 2024 titled as M/s Kamaldeep Industries vs. Dhanashree Agro Products Pvt. Ltd. and others'. By the said order, the Temporary Injunction Application of appellant was rejected.

2. Learned counsel for appellant submits that appellant had made out a foolproof case for grant of temporary injunction, and learned Commercial Court erred in not allowing the Temporary Injunction Application filed by appellant. He further submits that



reasons assigned for disallowing the Temporary Injunction Application are not sustainable in the eyes of law and the impugned order, therefore, deserves to be set aside and the Temporary Injunction Application filed by appellant deserves to be allowed.

3. Learned Commercial Court has considered and discussed all relevant aspects while holding that plaintiff / appellant has not been able to make out a *prima facie* case for grant of temporary injunction. It is further held that the balance of convenience is also not in favour of appellant. Learned Commercial Court further held that it is not a case, where plaintiff / appellant will suffer any irreparable injury, and held that he can be compensated in terms of money.

4. It is not in dispute that defendant / respondent No. 1 is occupier of a sugar factory, who had entered into an agreement with appellant for supply of molasses.

5. Sale and supply of molasses is regulated by Uttar Pradesh Sheera Niyam, 1964, which is applicable in State of Uttarakhand as well. Section 8 of the said Act enables the State Government to regulate sale or supply of molasses and such regulation can be *qua* quantity of molasses or the person to whom it is to



be sold or supplied. Section 8(1) of the aforesaid Act has been reproduced in Paragraph No. 14 of the impugned order.

6. Learned counsel for appellant, however, submits that learned Commercial Court has reproduced unamended Section 8 and after amendment made in the year 2000, Section 8 of the aforesaid Act reads as under:-

“8. Sale and supply of molasses.—(1) The controller may, with the prior approval of the State Government, by order require the occupier of any sugar factory to ‘sell or supply’ in the prescribed manner such quantity of molasses to such person, as may be specified in the order, and the occupier shall, notwithstanding any contract, comply with the order.”

7. Section 8 of the aforesaid Act, as it stands after amendment, also indicates that molasses is a controlled commodity, and the State Government exercises great degree of control over sale and supply of molasses. A perusal of Section 8(1) of the aforesaid Act further indicates that notwithstanding contract by occupier of a sugar factory regarding sale or supply with some other person, the occupier would be bound to sell or supply molasses to such person as the State Government specifies by an order passed under sub-section (1) of Section 8 of the aforesaid Act.

8. Learned Commercial Court was, therefore,



justified in holding that as per the statutory provision, without permission from the Controller, defendant No. 1 could not have sold or supplied molasses to appellant and agreement, if any, entered into between plaintiff and defendant No. 1, contrary to the provisions of Uttar Pradesh Sheera Niyamtran Adhiniyam, 1964, would be void in view of the provisions contained in Section 29 of Indian Contract Act. Therefore, learned Commercial Court held that it will not grant any temporary injunction, which runs counter to the spirit of the aforesaid Act.

9. Plaintiff / appellant had sought a temporary injunction restraining defendant Nos. 1 and 2, their agents, assignees, etc. from removing the molasses lying in the stock on the ground that defendant Nos. 1 and 2 had entered into an agreement to sell with appellant.

10. Since learned Commercial Court has, *prima facie*, held that the agreement entered into between appellant and defendant Nos. 1 and 2 is not as per the provisions of Uttar Pradesh Sheera Niyamtran Adhiniyam, 1964, therefore any interference with the discretionary order passed by learned Commercial Court in this Appeal would not be proper.



11. It is well settled that grant of temporary injunction is discretionary and the Appellate Court will not interfere with the exercise of discretion of the Court of first instance, except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the Court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. This aspect has been dealt with by the Hon'ble Supreme Court in *Skyline Education Institute (India) Pvt. Ltd. v. S.L. Vaswani*, (2010) 2 SCC 142, where the three-Judge Bench considered a somewhat similar question in the context of the refusal of the trial Court and the High Court to pass an order of temporary injunction, referred to the judgments in *Wander Ltd. v. Antox India (P) Ltd.* 1990 Supp SCC 727, *N.R. Dongre v. Whirlpool Corpn.*, (1996) 5 SCC 714 and observed:

“The ratio of the abovenoted judgments is that once the court of first instance exercises its discretion to grant or refuse to grant relief of temporary injunction and the said exercise of discretion is based upon objective consideration of the material placed before the court and is supported by cogent reasons, the appellate court will be loath to interfere simply because on a de novo consideration of the matter it is possible for



the appellate court to form a different opinion on the issues of prima facie case, balance of convenience, irreparable injury and equity.”

12. It is, thus, apparent that scope of interference by learned Appellate Court with learned Trial Court's order on temporary injunction application is limited. If two views are possible, then the view taken by learned Trial Court has to be maintained.

13. Hon'ble Supreme Court in the case of *Maharwal Khejwaji Trust (Regd.) Faridkot v. Baldev Dass* reported in (2004) 8 SCC 488 has held that unless and until a case of irreparable loss or damage is made out by a party to the suit, the Court should not permit a change of the said *status quo*, which may lead to loss or damage being caused to the party who may ultimately succeed and may further lead to multiplicity of proceedings. It has further been held that in any event, it is always open to the parties to claim damages if the case of the party pleading a maintenance of *status quo* is ultimately found to be baseless or, in an appropriate case, the Court may itself award damages for the loss suffered, if any, in this regard.

14. In view of the aforesaid legal position, this Court



does not find any reason to interfere with the impugned order. Thus, the Appeal fails and is dismissed. No order as to costs.

MANOJ KUMAR TIWARI, A.C.J.

VIVEK BHARTI SHARMA, J.

Dt: 19th November, 2024
Rathour

Digitally signed by PRAVINDR A S RATHOUR
 DN: c=IN, o=HIGH COURT OF UTTARACHAND,
 ou=HIGH COURT OF UTTARACHAND,
 2.5.4.20=25099c2c2640ad81b1b6f1532379
 42e20eb11097d17dbb534d81cab2c2946e6e
 postalCode=2620001, st=IN, serialNumber=16-6499E911D717C0A9F02A
 4C5E1798BE0E0331BA695239171F90FD5C
 45C4EB, cn=PRAVINDR A S RATHOUR
 Date: 2024.11.25 12:56:31 +05'30'