

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5043 OF 2008

[Arising out of SLP(C)No.2909 of 2006]

KANCHAN DEVI

Appellant(s)

VERSUS

SHREE VISHNU R.F.&OIL MILLS(P)LTD.&ORS. Respondent(s)

ORDER

Leave granted.

This appeal is directed against the order passed by the High Court in Company Appeal No.5 of 2005, whereby the order passed by the learned Company Judge rejecting the appellant's appeal for release of the two shop rooms in question, has been upheld.

On behalf of the appellant, it is submitted that the two shop rooms in question did not form part of the assets of the company in liquidation, and that in any event, the same had been purchased by the appellant from the erstwhile landlord before the final winding up order came to be passed on 2nd May, 2003. We may indicate that the said two shop rooms were said to have been purchased by the appellant on 8th June, 2001 and 4th March, 2003 respectively.

Having heard learned counsel for the appellant as well as the Official Liquidator, we are of the view that while a final decision is to be taken on the appellant's application pending before the Company Judge, the appellant may be allowed to use the two shop rooms for her own use till a final decision is arrived at regarding the ownership of the same.

Accordingly, we allow the appeal and direct that necessary directions be given by the learned Company Judge to the Official Liquidator to allow the appellant to use the two shop rooms till a final decision is arrived at in the application filed by the appellant before the Learned Company Judge regarding the ownership of the shops in question. Such directions must be given within a month from the date of communication of this order subject to the appellant filing an undertaking that she will not transfer or encumber the said shop – rooms during the pendency of Company Appeal No.5 of 2005.

.....J.
(ALTAMAS KABIR)

.....J.
(MARKANDEY KATJU)

NEW DELHI;
August 13, 2008.