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Ex Parte Tiffany

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Court : US Supreme Court

Decided On : Mar-01-1920

Appeal No. : 252 U.S. 32

Appellant : Ex Parte Tiffany

Judgement :

Ex Parte Tiffany - 252 U.S. 32 (1920)
U.S. Supreme Court Ex Parte Tiffany, 252 U.S. 32 (1920)

Ex Parte Tiffany

No. 26, Original

Argued January 19, 1920

Decided March 1, 1920

252 U.S. 32

PETITION FOR WRIT OF MANDAMUS OR PROHIBITION

SYLLABUS

Where the district court, in a case depending on diverse citizenship, having appointed a receiver to take charge of and disburse and distribute the assets of an insolvent state corporation, permitted a receiver later appointed for the same corporation by a court of the state to intervene and, after full hearing, denied his application to vacate the federal receivership and to have the assets turned over to him upon the ground that the proceedings in the state court had deprived the district court of jurisdiction, *held* that the order of the district court denying the application was a final decision, within the meaning of Jud.Code, 128, appealable to the circuit court of appeals. P. 252 U. S. 36 .

The words "final decision" in that section mean the same thing as "final judgments and decrees" used in former acts regulating appellate jurisdiction. *Id.*

When there is a right to a writ of error or appeal, resort may not be had to mandamus or prohibition. P. 37.Rule discharged.

The case is stated in the opinion.

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MR. JUSTICE DAY delivered the opinion of the Court.

This is an application of J. Raymond Tiffany as receiver, appointed by the Court of Chancery of New Jersey, of William Necker, Incorporated, for a writ of mandamus, or, in the alternative, a writ of prohibition, the object of which is to require the district judge and the District Court of the United States for the District of New Jersey to order the assets of the corporation, in the hands of a federal receiver, to be turned over to applicant for administration by him as receiver appointed by the New Jersey Court of Chancery.

An order to show cause why the prayer of the petition should not be granted was issued, a return was made by the district judge, and the matter was argued and submitted. The pertinent facts are: on September 30, 1916, creditors and shareholders of William Necker, Incorporated, a corporation of the State of New Jersey, filed a bill in the United States District Court of New Jersey alleging the

insolvency of the corporation, praying for the appointment of a receiver and a distribution of the corporate assets among the creditors and shareholders. The bill alleged diversity of citizenship as a ground for jurisdiction. The defendant corporation appeared and answered, admitting the allegations of the bill, and joined in the prayer that its assets be sold and distributed according to law. Upon consent, the district court appointed a receiver. The estate is insolvent, and the assets in the hands of the federal receiver are insufficient to pay creditors, and shareholders will receive nothing. On April 1, 1919, 2 1/2 years after the appointment of the federal receiver, creditors of William Necker, Incorporated, filed a bill in the Court of Chancery of New Jersey alleging the corporation's insolvency, praying that it be decreed to be insolvent, that an injunction issue restraining it from exercising its franchises, and that a receiver be appointed to dispose of the property and distribute it among creditors and shareholders. A decree was entered in said cause adjudging the corporation insolvent and appointing the petitioner, J. Raymond Tiffany, receiver. Thereupon Tiffany made application to the United States district court asking that its injunction enjoining the corporation and all of its officers and all other persons from interfering with the possession of the federal receiver be dissolved, that the federal receivership be vacated, and that the federal receiver turn over the assets of the company then in his hands, less administration expenses, to the chancery receiver for final distribution -- the contention being that the appointment of the chancery receiver and the proceedings in the state court superseded the federal proceeding, and deprived the federal court of jurisdiction.

The federal receiver had made various reports and conducted the business of the corporation up until the time of the application in the Court of Chancery of New

Jersey, in which the applicant was appointed receiver. It appears that the applicants in the state court also filed their verified claims with the federal receiver, and that no creditor or shareholder made objection to the exercise of the

jurisdiction of the federal court until the application in the state court.

The federal district court permitted the chancery receiver to intervene, heard the parties, and delivered an opinion in which the matter was fully considered. As a result of such hearing and consideration, an order was entered in which it was recited that Tiffany, the state receiver, had made an application to the federal district court for an order directing it to turn over to the chancery receiver all of the assets of the corporation in the possession of the federal receiver, and the district court ordered, adjudged, and decreed that the said application of J. Raymond Tiffany, receiver in chancery, "be and the same hereby is denied."

By Judicial Code, 128, the circuit court of appeals is given appellate jurisdiction to review by appeal or writ of error final decisions in the district courts, with certain exceptions not necessary to be considered. It is clear that the order made in the district court refusing to turn over the property to the chancery receiver was a final decision within the meaning of the section of the Judicial Code to which we have referred, and from which the chancery receiver had the right to appeal to the circuit court of appeals. By the order, the right of the state receiver to possess and administer the property of the corporation was finally denied. The words "final decision in the district court" mean the same thing as "final judgments and decrees," as used in former acts regulating appellate jurisdiction. Loveland on Appellate Jurisdiction of Federal Courts, 39. This conclusion is amply sustained by the decisions of this Court. *Savannah v. Jesup,* 106 U. S. 563 ; *Gumbel v. Pitkin,* 113 U. S. 545 ;

Krippendorf v. Hyde, 110 U. S. 276 , 110 U. S. 287 . *See also* a well considered case in the Circuit Court of Appeals, Ninth Circuit -- *Dexter Horton National Bank v. Hawkins,* 190 F. 924.

It is well settled that, where a party has the right to a writ of error or appeal, resort may not be had to the extraordinary writ of mandamus or prohibition. *In re Harding,* 219 U. S. 363 ; *Ex Parte Oklahoma,* 220 U. S. 191 . As the petitioner

had the right of appeal to the circuit court of appeals, he could not resort to the writ of mandamus or prohibition. It results that an order must be made discharging the rule.

Rule discharged.

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