

IN THE SUPREME COURT OF THE STATE OF DELAWARE

INDERPREET SINGH,	§
	§ No. 360, 2003
Plaintiff/Counterclaim	§
Defendant Below-	§
Appellant,	§
	§ Court Below—Court of Chancery
v.	§ of the State of Delaware,
	§ in and for New Castle County
BATTA ENVIRONMENTAL	§ C.A. No. 19627
ASSOCIATES, INC.,	§
	§
Defendant/Counterclaim	§
Plaintiff Below-Appellee.	

Submitted: October 9, 2003
Decided: October 21, 2003

Before **VEASEY**, Chief Justice, **HOLLAND**, and **STEELE**, Justices.

ORDER

This 21st day of October 2003, upon consideration of the appellee's motion to dismiss, the appellant's response, and the appellee's reply thereto, it appears to the Court that:

(1) The appellant, Inderpreet Singh, filed this appeal from a post-trial decision of the Court of Chancery dated June 24, 2003. The Court of Chancery previously had granted injunctive relief to Batta Environmental Associates, Inc. (Batta) on June 4, 2003. The June 24th order, in part, found Singh liable to Batta in the amount of \$55,956. In addition, the Court of Chancery found Singh liable

to Batta for damages incurred from September 30, 2002 until June 4, 2003. The Court of Chancery directed the parties to confer on the specific amount of those additional damages and submit a proposed form of order within 20 days. If the parties could not agree, the Court of Chancery would schedule a hearing on the amount of damages. The parties could not agree and did not submit a proposed form of order as directed, but to date, no hearing on damages has been scheduled.

(2) Batta has filed a motion to dismiss this appeal on the ground that the Court of Chancery's June 24, 2003 order is interlocutory and that Singh has not complied with Supreme Court Rule 42, which governs appeals from interlocutory orders. Batta contends that until the Court of Chancery enters an order determining a sum certain for damages, the June 24, 2003 order is not final or appealable. Singh, on the other hand, contends that Batta has waived its right to a further hearing on damages in the Court of Chancery because Batta never requested the Court of Chancery to schedule such a hearing.

(3) Upon consideration of the parties' positions, we find it manifest that this appeal is interlocutory. Contrary to Singh's assertion, the Court of Chancery did not make the scheduling of a hearing on damages contingent upon Batta's request to do so. Accordingly, Batta has not waived its right to a hearing on

damages. The further action required by the Court of Chancery in this matter is not a purely ministerial act but an exercise of discretion by the court in fashioning an appropriate implementing order. The ruling from which the appeal is taken is interlocutory in nature because it did not finally determine and terminate the cause before the Court of Chancery.* Furthermore, Singh has failed to comply with the requirements of Rule 42 in seeking to appeal from an interlocutory order.

NOW, THEREFORE, IT IS ORDERED that Batta's motion to dismiss is GRANTED. Upon the Clerk's issuance of the mandate, the parties shall request the Court of Chancery to schedule the hearing on damages. Singh's request for costs and attorneys fees is DENIED. This appeal is hereby DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

* *See Julian v. State*, 440 A.2d 990 (Del. 1982).