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SLP(C)No. 4723 OF 2003
ITEM No.63

Court No. 5

SECTION IX
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.4723/2003
(From the judgement and order dated 19/08/2002 in WP 3614/02
of The HIGH COURT OF BOMBAY)

D.M. MARGE & ORS.

Petitioner (s)

VERSUS

EXECUTIVE ENGINEER, SILVASSA & ORS.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 19/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s)Mrs. Varuna Bhandari Gugnani,Adv.
Mr. T. Mahipal,Adv.

For Respondent (s)Mr. Raju Ramachandran, A.S.G.
Mrs. Alka Agrawal,Adv.
Mr. D.S. Mahra,Adv.

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

Leave granted.

The appeal is disposed of in terms of the signed
order. No costs.

(Neena Verma) (Vijay Aggarwal)
Court Master Court Master

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2542 OF 2004
(Arising out of S.L.P.(C) No.4723 of 2003)

D.M. Marge and Ors.
...Appellants

Versus

The Executive Engineer, Silvassa and Ors.
...Respondents

O R D E R

Leave granted.

The above appeal has been filed against the order of a Division Bench of the High Court of Bombay dated 19.08.2002 in Writ Petition No.3614 of 2002 wherein the order passed by the Administrator revising and enhancing the rent with retrospective effect and also providing for payment of interest came to be affirmed by the dismissal of the writ petition.

While issuing notice in the special leave petition on 07.03.2003, we have confined the same and limited it to the consideration of the question relating to the payment of interest.

Heard the learned counsel for the appellant and learned senior counsel Shri Raju Ramachandran, learned Additional Solicitor General.

As rightly observed by the High Court, not only the revision and the enhancement was warranted but the rate of enhancement at 10% per annum cannot be said to be unreasonable or arbitrary keeping in view the location of the property and other facts specifically noticed by the Administrator.

So far as the direction to pay the interest is concerned, though strong objection is taken to the same by the learned counsel for the appellant, the learned senior counsel for the respondents with equal vehemence contends that there was nothing wrong in ordering for the payment of interest having regard to delayed nature of their collection and remittance. We are of the view that the payment of the amounts at enhanced rate was necessitated on account of the revision of such rate with retrospective effect and not on account of any lapse or default on the part of the appellants themselves in paying the same. Consequently, we see no justification to saddle upon them with the liability for interest also. In that view of the matter, except in relation to the direction to pay interest which we set aside, in other respects, the order of the Administrator, as affirmed by the High Court, shall stand. The appeal shall stand disposed of accordingly. No costs.

.....J.

(DORAISWAMY RAJU)

.....J.

(ARIJIT PASAYAT)

New Delhi,
April 19, 2004.