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C.A.No. 5188 OF 2001
ITEM No.102

Court No.4

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.5188 of 2001

Ganga Retreat & Towers Ltd. & Anr. Appellant(s)

VERSUS

State of Rajasthan & Ors. Respondent(s)
(With appln. for directions and exemption from filing O.T. and
directions)
(With I.A.No.10 for perjury against respondent No.2)

With Civil Appeal No.5189/2001 & 5190/2001
(With appln.(s) for stay and directions and exemption from filing O.T.
and directions with office report)
(With I.A.No.8 for initiating proceedings from perjury as against
respondent No.2/State of Rajasthan)

With Civil Appeal Nos.7215-7217/2001
(With appln. for directions and exemption from filing O.T.)

Date : 27/08/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE ASHOK BHAN

For Appellant (s)Dr. A.M. Singhvi, Sr.Adv.
in CAS.5188-90/01:Mr. Sunil Kumar Jain, Adv.
Mr. K.M. Gupta, Adv.
Mr. S. Borthakur, Adv.
Mr. Ansar Chaudhary, Adv.
Mr. R. Choudhary, Adv.

in CAS.7215-17/01:Mr. Rakesh Dwivedi, Sr.Adv.
Mr. Pramod Dayal, Adv.
Ms. Niranjana Singh, Adv.

For Respondent (s)
-State:Mr. S.M.Mehta, Adv.Genl., St.of Rajasthan.
Ms. Sandhya Goswami, Adv.

-Municipal Corpn.:Mr. Sushil Kumar Jain, Adv.
Mrs.Pratibha Jain, Adv.
Mr. H.D. Thanvi, Adv.
Mr. Anil Vyas, Adv.
Mr. A.P. Dhamija, Adv.
Mr. L.P. Singh, Adv.

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For Respondent (s)
-J.D.A.:Mr. Manish Singhvi, Adv.
Mr. Ashok K. Mahajan, Adv.

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

C.A.Nos.7215-7217 of 2001:

The appeals be treated as disposed of in terms of the signed order.

No order as to costs.

C.A.Nos.5188/2001, 5189/2001 & 5190/2001:

Adjourned to 23rd September, 2003, as jointly prayed.

(N. Annapurna)
Court Master

(Radha R. Bhatia)
Court Master

Signed order in CA Nos.7215-17/01 is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.7215-7217 OF 2001

Shivani Enclaves Pvt. Ltd. ...Appellant(s)

Versus

State of Rajasthan & Ors. ...Respondent(s)

O R D E R

A writ petition was filed by the appellants herein for the purpose of seeking annulment of sale held in favour of the appellants by way of a public auction and seeking refund of sale consideration, several expenses incurred by the appellants and the loss of interest because of breach of certain material terms set out in the proclamation of sale. A learned Single Judge of the High Court allowed the writ petition. However, the judgment of the learned Single Judge has been reversed by the Division Bench in appeal. The Division Bench has held that so far as the claim for compensation is concerned, the appropriate forum for the appellants was a civil court.

During the course of hearing, it is pointed out

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that certain subsequent events have rendered the original relief claimed by the appellants inappropriate. It is also pointed out that FAR, as originally promised, has subsequently been allowed to the appellants and the appellants are happy with the FAR. There were other benefits which were promised and, though withheld initially, have subsequently been allowed to the appellants.

Now, the learned senior counsel for the appellants submits that the appellants propose to confine their claim only to compensation for the delay which has occurred on account of withholding the sanction of the building plans in accordance with the terms and conditions of the auction. It is submitted that if the building plans would have been promptly sanctioned, then, the construction would have been completed at an early date and the appellants would have put their property to a profitable commercial use and earned thereby. Such a claim would obviously depend on determination of disputed questions of fact and the quantum of compensation would need to be assessed. The respondents may have all possible legal and factual defences available to be raised by them which shall also have to be gone into. Writ jurisdiction is not an appropriate forum for

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adjudication of such questions; more so, when even the material facts have undergone a substantial change during the pendency of the proceedings. The Division Bench has already given the liberty to the appellants to have recourse to civil court for appropriate reliefs.

No interference with the impugned judgment of the Division Bench of the High Court is called for except to the extent of clarifying that all the questions of fact and law would be available to be adjudicated upon by the civil court on their own merits in the event of the appellants choosing to file a civil suit.

The appeals be treated as disposed of accordingly.

No order as to costs.

(R.C. LAHOTI)J.

.....J.
(ASHOK BHAN)

New Delhi,
August 27, 2003.