

ITEM NO.46

COURT NO.2

SECTION IX

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 (C) No(s). 12479/2017

(Arising out of impugned final judgment and order dated 29-03-2017 in CAL No. 6/2016 From Notice No.1786 of 2015 in Execution Application No.2006 of 2015 in Arbitration Award dated 04.08.2008 passed by the High Court of Bombay)

GAUTAM SINGHANIA

Petitioner(s)

VERSUS

HARI SHANKAR SINGHANIA & ORS.

Respondent(s)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND FOR PERMISSION TO FILE SYNOPSIS AND LIST OF DATES)

Date : 05-07-2017 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Kunal Vajani, Adv.
Mr. Suraj Juneja, Adv.
Mr. Aman Raj Gandhi, Adv.
Mr. A. Thakur, Adv.
Ms. Bindi Girish Dave, AOR

For Respondent(s) Mr. D. Madan, Sr. Adv.
Ms. Nandini Khaitan, Adv.
Mr. Sahil Narang, Adv.
Mr. Sanjeev K., Adv.

For M/s. Khaitan & Co., AOR

Mr. Anuj J., Adv.
Mr. Shashwat Dev, Adv.
Mr. Shohit Chaudhry, AOR

Mr. Shrish Kumar Misra, AOR

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

When this matter was listed on 28.4.2017, with consent of the parties, this was taken up on 30.4.2017. On that day, having heard learned counsel for the parties at length, the

Court passed the following order :-

"Heard Mr. Kapil Sibal and Mr. P. Chidambaram, learned senior counsel along with Mr. Kunal Vajani, learned counsel for the petitioner and Mr. Dinyar Madon and Mr. Shyam Divan, learned senior counsel along with Ms. Nandini Khaitan, learned counsel for the respondent Nos.1 to 6.

Having heard learned counsel for the parties, it is directed that the petitioner shall hand over the property i.e. Kamala Cottage, Property No.6 at Juhu, Mumbai (property at Sl. No.5) to the respondent Nos.1 to 6 by 6th May, 2017, subject to deposit of a sum of Rs.20,00,00,000/- (Rupees twenty crores only) by the said respondents before the Registry of this Court on or before 4th May, 2017.

Issue notice to the respondent Nos.7 to 15, for the respondent Nos.1 to 6 have been represented by Mr. Dinyar Madon and Mr. Shyam Divan, learned senior counsel.

Dasti, in addition, is permitted.

The execution proceedings being, Execution Application Nos.80 of 2016 and 366 of 2016, pending before the court of District Judge, Kanpur, U.P., shall be transferred to this Court and the same be heard along with the present special leave petition.

In the event the amount is deposited, the Advocate-on-Record for the respondents shall intimate it to the Advocate-on-Record for the petitioner. The purpose of this intimation is that the petitioner shall hand over the possession of the property as mentioned herein-above on or before 6th May, 2017, which is not later than forty-eight hours. When we say the petitioner, it means that the possession of the property shall be handed over and anyone who tries to create obstruction, shall be liable for contempt of this Court.

Let the matter be listed on 8th May, 2017."

On 8.5.2017, the the following order came to be passed :-

"Let the matter be listed on 5th July, 2017.

The respondent Nos.7 to 15 shall deposit a sum of Rs.10,00,00,000/- (Rupees ten crores only) before the Registry of this Court by end of May, 2017. The amount so deposited shall be kept in a short term fixed deposit in the UCO Bank, Supreme Court Compound, New Delhi, so that interest can be accrued on the same.

The amount of Rs.20,00,00,000/- (Rupees twenty crores only) that has already been deposited in pursuance of this Court's order dated 30th April, 2017, shall also be kept in a short term fixed deposit in the UCO Bank, Supreme Court Compound, New Delhi, so that interest can be accrued on the same."

We have been apprised by Mr. Kapil Sibal, learned senior counsel appearing for the petitioners and Mr. Shirish Kumar Misra, learned counsel appearing for respondent Nos.7 to 15 that they have amicably settled the dispute among themselves. As far as the respondent Nos.1 to 6 are concerned, their claim for possession was satisfied by virtue of our order passed on 30.4.2017.

In view of the fact that the petitioner and respondent Nos.7 to 15 have settled the property disputes, what remains is claim of Rs.46,11,00,000/- (Rupees forty six crore and eleven lac only) that has been lying in deposit before the High Court of Bombay. It is submitted by Mr. Shirish Kumar Misra that his clients would be entitled to Rs.22,71,00,000/- (Rupees twenty two crore and seventy one lac only) and the petitioner and other partners of the Bombay Group shall be entitled to Rs.23,40,00,000/- (Rupees twenty three crore and forty lac only). The said position is not disputed by Mr. Sibal, learned senior counsel appearing for the petitioner and Mr. Shohit Chaudhary, learned counsel who has instructions to

make the settlement on behalf of Respondent Nos. 19, 20 and 21. The parties are at liberty to approach the High Court individually to withdraw the said amount. The High Court shall immediately disburse the principal amount. As regards the interest as accrued, the High Court shall deal with the disbursement of the same on its own merits.

Another issue that has cropped up is with regard to the payment of stamp duty on the arbitral award. It is submitted by Mr. Dingar Madan, learned senior counsel appearing for Respondent Nos. 1 to 6, that the said respondents have paid the stamp duty in entirety though all the parties are liable to share. At this juncture, Mr. Kapil Sibal, learned senior counsel and Mr. Srish Kumar Misra, learned counsel submitted that the said respondents conceded before the High Court that they will not put forth any claim for the amount paid by them relating to the stamp duty. As far as this aspect is concerned, we would request the High Court to dwell upon the same.

In view of the aforesaid, the amount of Rs.20,00,00,000/- (Rupees twenty crore only) that had been deposited by the respondent Nos.1 to 6, as per our order dated 30.4.2017, be refunded to them on proper identification with the accrued interest, if any.

The amount of Rs.10,00,00,000/- (Rupees ten crores only) that has been deposited by Mr. Respondent Nos.7 to 15 shall also be refunded on proper identification along with the accrued interest.

The special leave petition is accordingly disposed of There shall be no order as to costs.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master