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SLP(C)No. 1061 OF 1999

ITEM No.30

Court No. 1

SECTION IX
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.1061/1999

(From the judgement and order dated 23/09/1998 in FA 5318/97
of The HIGH COURT OF GUJARAT AT AHMEDABAD)

M/S.TULSI CONSTRUCTIONS

Petitioner (s)

VERSUS

O.N.G.C. LTD.& ANR.

Respondent (s)

(With prayer for interim relief)

Date : 12/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Ramesh Singh, adv.
Ms. Vanita Bhargava, adv.
Ms. Bina Gupta, adv.

For Respondent (s) Mr. Gopal Jain, adv.
Mrr. Manish Garag, adv.
Mr. K.R. Sasiprabhu, adv.

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

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Leave granted.

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

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(Neena Verma)
Court Master

(Prem Prakash)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1207 OF 2001@@
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(@ Special Leave Petition (C) No.1061/99)

M/s. Tulsi Constructions Appellants

Versus

Oil & Natural Gas Corporation
Limited & Anr. Respondents

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Leave granted.

The issue involved in the present appeal, by special leave, is whether the arbitrator could award interest both pre-reference and pendente lite, when the same had not been claimed by the respondent in his counter claim submitted before the arbitrator?

The fact that in the counter claim filed by the respondents, they did not claim interest, is not disputed. In this view of the matter, the award of interest by the arbitrator, when the same was not even claimed in the counter claim by the respondents, is not justified. That part of the award should not have been made rule of the Court. In taking this view, we are fortified by a judgment of this Court in Paradip Port Trust and Ors. Vs. Unique@@
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Builders (2001 (1) SCALE 504) wherein speaking for the@@
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Bench, Patil, J. specifically laid down that the power of an arbitrator to award interest pendente lite as well as pre-reference must precede with a claim for grant of interest pendente lite or pre-reference in the claim/counter claim petition. We are in respectful agreement with the view so expounded.

Consequently, this appeal succeeds to the limited extent that the amount of interest awarded in respect of the counter claim for the period from 01.10.1989 to 23.03.1994 is hereby set aside. The decree shall stand modified to that extent.

The appeal is disposed of. No costs.

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.....CJI.

.....J.
(R.C. LAHOTI)

New Delhi,
February 12, 2001.

.....J.
(BRIJESH KUMAR)