

SLP(C)No. 695 OF 2002
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....J

IN THE SUPREME COURT OF INDIA@@
AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA

CIVIL APPELLATE JURISDICTION@@
AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA

CIVIL APPEAL NO. 1939 OF 2002@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of S.L.P.(C) No.695/2002)

Firm Indian Diecasting Industries ...Appellant(s)

versus

Firm Ram Charan Kasera ...Respondent(s)

O R D E R@@
CCCCCCCC

L.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.

Pending the disposal of an appeal, the High Court on an application for stay of a decree directed deposit of the decretal amount and interest at eighteen per cent and permitted the respondents to withdraw the amount so deposited without furnishing any security. At an earlier stage, when we issued notice on the special leave petition, we stayed the order of the High Court insofar as it permitted the respondents to withdraw the amount deposited by the appellants without furnishing any security and we ordered, as an interim measure, that it would be open to the respondents to withdraw the amount deposited by the appellants upon furnishing to the satisfaction of the Registrar of the High Court a bank guarantee of a Nationalised Bank for the full amount to be withdrawn.

...2/-

.PA

Learned counsel for the respondents submits that the respondents cannot afford to give a bank guarantee inasmuch as it requires them to deposit with the bank the amount guaranteed. He submits, therefore, that the order of the High Court should be maintained.

It is possible that the appeal may succeed. If so, the respondents would have to return to the appellants the amount deposited. To ensure that such moneys are available, the High Court should not have permitted the respondents to withdraw the amount without any security but should have insisted upon some form of security. In our view, the appropriate security is a bank guarantee of a Nationalised Bank for the amount of the withdrawal.

Therefore, the appeal is allowed. The order under appeal is set aside to the extent that it permits the respondents to withdraw the amount deposited by the appellants without furnishing any security. The order of the High Court is modified to this extent that it would be open to the respondents to withdraw the amount deposited by the appellants upon furnishing to the satisfaction of the

For Petitioner (s) Mr. N.L. Ganapathi, Adv.

For Respondent (s) Mr. B.B. Sinha, Adv.
Mr. R.P. Agarwal, Adv.
Mr. G.S. Bhat, Adv.
Mr. Raj Kumar Gupta, Adv.
Mr. M.P. Shorawala, Adv.

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

....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Mr.Sinha, learned counsel for the respondent, made his submissions for about twenty minutes.
Leave granted.
The civil appeal is allowed.
No order as to costs.

.SP1
(N. Annapurna) (Shelly Sengupta)
Court Master Court Master

(Signed order is placed on the file.)