

Pl

SLP(C)No. 4376-4381 OF 2004

ITEM No.48

Court No. 8

SECTION XVII

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.4376-4381/2004

(From the judgment and order dated 12/12/2003 in Misc. Petition No.554 in R.P. No.677/1998, Misc. Petition No.555 in R.P. No.678/1998, Misc. Petition No.556 in R.P. No.679/1998, Misc. Petition No.557 in R.P. No.683/1998, Misc. Petition No.558 in R.P. No.684/1998 and Misc. Petition No.559 in R.P. No.714/1998 of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

SUSEEL FINANCE & LEASING CO.

Petitioner (s)

VERSUS

M. LATA & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 19/03/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s)Mr. K.V. Vishwanathan, Adv.  
Mr. Anand, Adv.

Mr. Abhijit Sengupta,Adv.

For Respondent (s)Mr. C. Paramasivam, Adv.

Mr. Rakesh K. Sharma,Adv.

UPON hearing counsel the Court made the following

O R D E R

These Special Leave Petitions are against an order dated 12th December, 2003 passed in Review Petitions. It must be mentioned that against the main judgment Special Leave Petitions had earlier been filed. However, when those Special Leave Petitions reached hearing on 1st September, 2003, the following order came to be passed:

"After arguing for some time, the learned counsel for the petitioners seeks permission to withdraw the special leave petitions to seek review of the order of the National Commission. Permission is granted. Accordingly, the special leave petitions are dismissed as withdrawn."

It is clear from the Order that the matter was argued for some time. It is clear that the Court was against the Petitioners. Thus, as has become common now-a-days, counsel applied for withdrawal on the ground that a review will be applied for.

Thereafter the review applications were filed before the High Court which have now been dismissed. By these Special Leave Petitions the Order dismissing the Review Petitions has been challenged.

In the case of Shankar Motiram Nale v. Shiolalsing Gannusing Rajput reported in (1994) 2 SCC 753, it has been held by this Court that against an order rejecting an application for review, a Special Leave Petition is not maintainable. This authority is directly on the point in issue. Not only we are bound by it but we are also in agreement with it. Faced with this situation, it is sought to be submitted that this Court in the cases of M/s Green View Tea & Industries v. Collector, Golaghat, Assam & Anr. reported in 2004 (2) SCALE 547 and K. Rajamouli v. A.V.K.N. Swamy reported in (2001) 5 SCC 37, have taken contrary views. We find that in these two

cases the question whether a Special Leave Petition was maintainable against an Order rejecting a Review Petition, was not considered at all. In those cases, the question was whether Special Leave Petition was barred by principles of res judicata. It has been held that Special Leave Petition is not barred by principles of res judicata. In neither of those cases reference has been made to the above mentioned judgment of this Court in Shankar Motiram Nale's case (supra). In both those cases it has been held that a Special Leave Petition is maintainable only in the context of it being barred on principles of res judicata. In both those cases the question whether a Special Leave Petition is against an Order disposing of a Review Petition was not considered at all. These cases therefore have no relevance at all. On the basis of the ratio in Shankar Motiram Nale's case (supra), we hold that these Special Leave Petitions are not maintainable. They are dismissed as such. There will be no order as to costs.

(K.K. Chawla)  
Court Master

(Jasbir Singh)  
Court Master