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SLP(C)No. 4334-4335 OF 2000

ITEM No.201

Court No. 3

SECTION XII
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.4334-4335/2000
(From the judgement and order dated 01/10/1999 in CMA 940/97
and CMP 9822/97 of The HIGH COURT OF MADRAS)

PYRITES,PHOSPHATES & CHEMICALS LTD. Petitioner (s)

VERSUS

SIBLIAN COMPANIA & ANR Respondent (s)

(For Final Disposal)

Date : 30/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Mr. Mukul Rohtagi, ASG
Mr. B Sunita Rao, Adv.
Mr. B.V. Balaram Das,Adv.

For Respondent (s) Mr. P.B. Suresh,Adv. (NP)

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

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Special leave granted.

The appeals are allowed and the orders of the trial
court and of the High Court are set aside.

No costs.

(D.P. WALIA)
COURT MASTER

(S.L. GOYAL)
COURT MASTER

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2505-2506 OF 2001@@
CC
[arising out of S.L.P.(C) Nos. 4334-4335 of 2000]

Pyrites, Phosphates & Chemicals Ltd. ..Appellant(s)

vs.

Sebilan Compania & Anr. ..Respondent(s)

O R D E R@@
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Special leave granted.

The only question involved in this case is whether there was an arbitration agreement between the parties or not. It appears that there was a Charter Party Contract dated 13th June, 1991 which was entered into between the parties in which clause 47 provided that in case of disputes between them the same will be referred to arbitration under the provisions of the Indian Arbitration Act, 1940. Some disputes having arisen, the Union of India appointed respondent No. 2 as arbitrator. Thereupon, respondent No. 1 filed an application in the Civil Court, Cuddalore under Section 33 of the Arbitration Act, 1940, contending that there was no arbitration agreement between the parties, inasmuch as the bill of lading did not refer to any such arbitration clause.

This plea was accepted by the trial court and the application of the respondent allowed. The High Court affirmed this view. Hence, this appeal by special leave.

Mr. Mukul Rohtagi, the learned Addl. Solicitor General has drawn our attention to the bill of lading the

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opening part of which specifically provides that "all terms and conditions of the relevant charter party are deemed to have been incorporated therein". Furthermore, one of the conditions of carriage as provided in the bill of lading further stipulates that all terms and conditions contained in the charter party would stand incorporated. Admittedly, clause 47 of the charter party contains an arbitration clause which provides that each party may appoint an arbitrator out of a panel of arbitrators maintained by the Indian Council of Arbitration and that disputes between the parties will be settled according to the provisions of the arbitration agreement. The courts below overlooked this aspect and came to an incorrect decision. We are of the opinion that there was a binding arbitration agreement between the parties.

We, accordingly, allow these appeals and set aside the orders of the trial court and of the High Court.

No costs.

.....J.
(B.N. KIRPAL)

.....J.
(RUMA PAL)

New Delhi;
March 30, 2001.

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