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SLP(C)No. 3400-3402 OF 2004

ITEM No.59

Court No. 3

SECTION XIV

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 (Civil) No.3400-3402/2004

(From the judgement and order dated 06/02/2004 in FAO (OS) 13, 14 & 15/04
of The HIGH COURT OF DELHI AT N. DELHI)

K. PRABHAKAR RAO

Petitioner (s)

VERSUS

ASSOCIATES

Respondent (s)

(With Appln(s). for permission to rectify/correct typographical
error in the affidavit filed on 25.2.2004)

(With prayer for interim relief)

Date : 12/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI

HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s)

Mr. V.J. Francis,Adv.

Mr. P.I. Jose, Adv.

Mr. K.S. Bhati, Adv.

Mr. Jenis, Adv.

For Respondent (s)

Mr. Badri Prasad Singh,Adv.

Mr. Puneet K.Bhalla, Adv.

Ms. Chetna Bhalla, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A. Nos. 4 to 6 are allowed.

Leave granted.

The appeals stand disposed of in terms of the signed order placed on the file.

(Ajay Kr. Jain)

(Radha R. Bhatia)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2004

(Arising out of SLP(C) Nos. 3400-3402 of 2003)

K. Prabhakar Rao

....

Appellant

Versus

Associates

....

Respondents

O R D E R

Leave granted.

In an application under Section 9 of the Arbitration and Conciliation Act, 1996, the learned Single Judge of the High Court of Delhi (Original Side) by order dated 4.2.2004 directed a Receiver to be appointed. The said order has been maintained by the Division Bench in appeal.

The dispute has arisen out of hire purchase and loan agreements relating to a Machine described as - Windsor Model SPH-650 Injection Moulding Machine with Allen Bardley Control. The Receiver has taken possession of the machine and handed over the same in superdagi to the Appellant under orders of the Court.

During the course of hearing, we requested the learned counsel for the parties to try to find out a solution and resolve the controversy in its entirety. The appellant has made an offer for settlement and to show his bonafides paid an amount of Rs. 10 (ten) lakhs to the respondent, as recorded in the order dated 8.3.2004. Subsequently another amount of Rs. 6 (six) lakhs has also been paid, the receipt whereof is admitted by the learned counsel for the respondent. Both the parties have through their respective counsel exchanged offers of settlement. The matter has not been finally resolved. However, the parties have expressed their willingness to accept such resolution as the Court may deem fit to make.

According to the appellant, after payment of Rs. 10 (Ten) lakhs, as stated hereinabove, an amount of Rs. 11 (Eleven) lakhs remains outstanding on account of principal and the appellant is prepared to pay an amount of Rs. 59 (fifty nine) lakhs by way of interest over and above the principal amount. The payment of Rs. 6 (six) lakhs is to be adjusted therefrom. Initially, the appellant proposed the amount to be paid in 27 (twenty seven) installments. However, during the course of negotiations the appellant has reduced the number of installments proposing to clear all the balance dues in 15 installments.

According to the respondent, the total amount advanced was Rs.2.60 crores. Receipt of Rs.2.55 crores is accepted. However, it is submitted by the respondent that calculating the interest as per agreement, the total amount on account of principal and interest is Rs.1 crore and 1 lakh, out of which Rs. 10 (ten) lakhs and Rs. 6(six) lakhs have been received reducing the amount to Rs.85 (eighty five) lakhs.

After hearing the learned counsel for the parties, we are of the opinion that some relaxation in the amount of interest needs to be given to the appellant specially in view of the fact that the appellant seems to be genuinely interested in making the payment and has, therefore, made payment of Rs.10(ten) lakhs and 6(six) lakhs, as noted hereinabove, during the pendency of these proceedings.

We think that the amount which is now proposed by the appellant to be paid as balance dues seems to be reasonable. Giving adjustment of Rs. 6(six) lakhs paid by the appellant, as noted hereinabove, we appoint the total liability of the appellant towards respondent at Rs. 59 (fifty nine) lakhs. This amount shall be paid in 15 installments out of which 14 installments shall be of Rs. 4 (four) lakhs each and the last installment shall be of Rs. 3(three) lakhs. The amount shall be paid by demand drafts. The first installment shall be paid on or before 10th May, 2004. The subsequent installments shall continue to be paid on or before 10th day of each succeeding month. If the calendar of installments is meticulously observed then on the payment of the last installment, i.e., the 15th installment the property shall stand released from the receivership. In the event of the appellant defaulting in payment of any two installments, the respondent shall be at liberty to seek recall of this order and revival of the appeal for hearing.

The appeals stand disposed of subject to the above observation.

All the proceedings pending between the parties in any other court relating to this transaction shall remain stayed and shall be withdrawn by the respondent on full payment of the installments, as stated hereinabove.

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

.....J.
(ASHOK BHAN)

New Delhi
April 12, 2004