

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

B E F O R E T H E R E G I S T R A R S . G . S H A H

Petition(s) for Special Leave to Appeal (Civil) No(s).2089/2007

(From the judgement and order dated 21/12/2006 in TS No. 6/2004 & PLA No. 204/2004 & APO No. 242/2005 & APOT No. 284/2005 & GA No. 1429/2005 & GA No. 2721/2004 of The HIGH COURT OF CALCUTTA)

KRISHNA KUMAR BIRLA

Petitioner(s)

V E R S U S

RAJENDRA SINGH LODHA & ORS.

Respondent(s)

(With prayer for interim relief and office report )

WITH SLP(C) NO. 2090 of 2007

(With prayer for interim relief and office report)

SLP(C) NO. 2091 of 2007

(With prayer for interim relief and office report)

Date: 03/05/2007 This Petition was called on for hearing today.

For Petitioner(s) Mr. Akhil Sibal,Adv.  
Mr. Ajay Bharvaga,Adv.  
Ms. Vanita Bhargava,Adv.  
Ms. Vanita Bhagava,Adv.  
M/S. Khaitan & Co.,Adv.

For Respondent(s) Mr. Sameer Parekh,Adv.  
Mr. E.R. Kumar,Adv.  
Ms. Ranjeeta Rohatgi,Adv.  
For M/S P.H. Parekh & Co.,Adv.

U P O N h e a r i n g c o u n s e l t h e C o u r t m a d e t h e f o l l o w i n g  
O R D E R

As per earlier order respondents have to file counter affidavit before today i.e. 3.5.2007. It is disclosed in the office report that M/s. P.H. Parekh & Co Advocates for respondent No. 1 has not filed

counter affidavit and has filed a letter on 30.4.2007 stating therein that they have received counter

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affidavit from their client, but some modifications are require to be carried out in the counter affidavit and therefore they have sent back the counter affidavit to the client and the same will be filed as soon as it is received in their office.

Thus there is a request by respondent No.1 for futher time to file counter affidavit.

However, learned counsel for the petitioners are objecting such request stating that in view of the provisions of sub- Rule 31 of Rule 2 of Order VI of the Supreme Court Rules, this court has got jurisdiction to grant only two extensions for the same purpose and that no extension can be granted in absence of proper application for extension of time for filing pleadings, and that there is no such application filed by respondent No. 1 till date.

It is further contended that this court has already granted time upto 3.5.2007 for filing counter affidavit and there is specific order dated 26.4.2007 to list the matter before the Hon'ble Court immediately thereafter, i.e., after filing the counter affidavit before 3.5.2007, with further direction to list the matter before the Hon'ble Court preferably before Summer Vacation. There is also a direction to file rejoinder affidavit till date.

In view of the above contentions, it is specifically objected by the petitioners to grant

further time for filing counter affidavit.

It is contended by the learned counsel for the respondents that there is a practice of making oral application for extension of time. If no time is extended only because there is no written application for extension of time so they are ready to file such application today itself or latest by tomorrow and such application may be considered thereafter.

It is further contended that there is no urgency in the matter and infact both the parties agreed

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before the Trial Court for not proceeding further in the Trial Court, in view of the pendency of the present litigations.

So far as filing of application, as referred in Order VI Rule 31(1) is concerned, there is no necessity for permission of this court and hence any of the party can file appropriate application, as per their desire if they are so permitted in the Rule. Hence there is no need to give any permission or specific direction so far as request to file application by respondent No. 1 is concerned.

So far as granting time to file counter affidavit is concerned, it is certain that this court has granted time for filing pleadings on two occasions and petitioners are complaining about non-filing of counter affidavit in time. Hence it is difficult to extend the time further.

However the function & duties of this court is to see that pleadngs are complete before the matter

is listed before the Hon'ble Court as as to and  
save the valuable time of the Hon'ble Court.

In view of the above facts, no further time can  
be granted in favour of the respondents to file  
counter affidavit.

Both the parties are permitted to file their  
respective affidavits before the date of listing, as  
per Rules.

List the matter before the Hon'ble Court in  
compliance of the earlier orders.

(S.G. SHAH)  
Registrar