

pc

SLP(C)No. 6969 OF 2001
ITEM No.23

Court No. 7

SECTION XIIA
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.6969/2001

(From the judgement and order dated 02/03/2001 in CRP 794/01
of The HIGH COURT OF A.P AT HYDERABAD)

M/S. ANCHOR CAPITAL OF INDIA LTD. & ORS.

Petitioner (s)

VERSUS

R. NAMDEV & ORS.

Respondent (s)

(With prayer for interim relief)

With

SLP(C)No.10905-10906/2001

(with prayer for interim relief)

Date : 06/09/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr. KK Venugopal, Sr. Adv.
Mr. Shankar Divate, Adv.

Mr. Dhruv Mehta, Adv.
Ms. Shalini Gupta, Adv.
Mr. Mohit Chaudhary, Adv.for
M/s KL Mehta & Co., Advs.

For Respondent (s) Mr. Gopal Subramaniam, Sr. Adv.
Mr. M Srinivas R Rao, Adv.
Mr. Srinivas Kotni, Adv.
Ms. Neeru Vaid, Adv.

Res. No.38 & 41 Dr. (Ms.) Vipin Gupta, Adv.

UPON hearing counsel the Court made the following

O R D E R

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

Mr. KK Venugopal, learned senior counsel started his arguments at 12.10 p.m. and concluded at 12.30 p.m. Thereafter Mr. Gopal Subramaniam, learned senior counsel made his submissions for about ten minutes. Arguments concluded.

Leave granted.

The order of the High Court is set aside and the proceedings are remitted to the High Court. The appeals are disposed of in terms of the signed order.

.SP1

(D.L. Chugh)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file

.PL57

.....L.....I.....T.....T.....T.....T.....T.....T.....J
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5638 OF 2002@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of SLP(C) No.6969 of 2001)

M/s Anckor Capital of India Ltd. & Ors.Appellants

VERSUS

R Namdev & Ors.Respondents

WITH

CIVIL APPEAL NOS.5639-40 of 2002@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of SLP(C) No.10905-906 of 2001)

O R D E R@@
CCCCCCCC

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

Leave granted.

These appeals are directed against a common order passed by a learned Single Judge of the High Court of Andhra Pradeesh, wherein while interfering with the order of the learned trial Judge declining to grant leave to defend the suit, it was held that it was a case for granting leave to defend the suit but subject to a condition that 50 per cent of the decretal amount should be deposited within six weeks. A default clause was also imposed indicating the consequences to follow on failure to abide by the same. The plaintiffs were also permitted to withdraw the same in proportion to their respective claims on furnishing a bank guarantee, with a clause to redeposit the same unconditionally in the event of suit being dismissed.

...2/-

- 2 -

Heard Shri K.K. Venugopal, learned senior counsel and Mr. Dhruv Mehta, learned counsel for the appellants and Mr. Gopal Subramaniam, learned senior counsel for the respondents.

Shri K.K. Venugopal, learned senior counsel strenuously contended that in view of the earlier decisions of this Court, once the High Court had come to the conclusion that it is a matter where leave has to be granted it should be granted unconditionally and no further conditions could have been superimposed, to curtail the efficacy of the same.

Per-contra, the learned senior counsel for the respondent Mr. Gopal Subramaniam, with equal vehemence, contended that the issue relating to the grant of leave as well as the conditions to be imposed are matters within the discretion of the Court concerned, not ordinarily to be interfered in exercise of revisional jurisdiction by the High Court, and so far as the case on hand is concerned, the

decision to impose the condition is inextricably interlinked as one combined exercise and that at any rate the decision arrived at cannot be, split at this stage, in the manner sought to be done to consider only the legality or propriety of the condition alone. In substance, the submission for the respondents is the approach and resultant order passed by the ...3/-

- 3 -

High Court being a composite exercise, no exception could be taken for the condition imposed alone.

We have carefully considered the submissions of learned counsel on the either side. We do agree with the submission that the order could not be construed in a truncated manner dissociating the decision to impose the condition from the decision to grant leave to defend the suit. This is for the simple reason that no specific or concrete reasons seem to be disclosed in the order to interfere with the exercise of discretion made by the learned trial Judge and as to what weighed with the High Court to grant leave, in the case. Therefore it could be reasonably presumed that it was a composite exercise undertaken as a result of which the order ultimately came to be passed with a condition.

Consequently, we set aside the order of the High Court and remit the proceedings, for being restored to its original file for consideration afresh in accordance with law after hearing both parties. Any observations made in our order or our interference in the matter should not be considered as any expression of opinion on the merits of contentions of the either side. The appeals stand disposed of and proceedings remanded to the High Court, accordingly. ...4/-

- 4 -

As the appellants shall be at liberty to move the High Court for any orders of stay, the respondents shall be equally at liberty to oppose, and it is for the Court to consider the claims, objectively on their own merits.

Having regard to the nature of the proceedings and the stage in which they are pending and the lapse of time the High Court may consider the matter being given priority for and expeditious disposal of these cases.

.SP1

.....J.@@
BBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBB
(DORAISWAMY RAJU)@@
BBBBBBBBBBBBBBBBBBBB

.....J.@@
BBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBB
(SHIVARAJ V. PATIL)@@
BBBBBBBBBBBBBBBBBBBB

New Delhi,
September 6, 2002