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SLP(C)No. 8657 OF 2004
ITEM No.9

Court No.8

SECTION IVB

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.8657/2004

(From the judgement and order dated 04/03/2004 in CM 4064/2004
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF HARYANA & ANR.

Petitioner (s)

VERSUS

NARENDER GAHLAWAT

Respondent (s)

(With appln(s). for permission to place subsequent events and
prayer for interim relief)

Date : 13/08/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s)Mr. Nikhil Goel, Adv.
for Ms. Kavita Wadia, Adv.

For Respondent (s)Mr. Ranbir Singh Yadav,Adv.
Mr. Prakash Singh, Adv.

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

Heard learned counsel for the parties.

I.A. No. 1 is allowed.

Leave granted.

The appeal is allowed. No costs.

[Alka Dudeja] [Om Prakash]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5246 OF 2004
(Arising out of S.L.P. [C] No. 8657 of 2004)

State of Haryana and Anr....Appellant (s)

Versus

O R D E R

Heard learned counsel for the parties.

Leave granted.

By the impugned order, the High Court of Punjab and Haryana in a revision application, which was already admitted, refused to grant interim relief. It appears that an Award was passed against which objections were filed, which were rejected and the rejection was confirmed in appeal. Thereupon, Civil Revision Petition was filed before the High Court, which was admitted. In the meantime, the State of Haryana deposited in the appellate court, i.e., the District Judge, Gurgaon, the entire amount which was awarded. During pendency of the revision application, prayer was made on behalf of the State of Haryana for not allowing the respondent to withdraw the aforesaid deposits but the said prayer has been rejected by the impugned order.

At the time of issuing notice on 5th May, 2004, counsel for respondent was asked to obtain instructions from his client as to whether he was in a position to furnish bank guarantee for withdrawal of the amount awarded in his favour and deposited in the concerned court. Pursuant

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thereto, it has been stated that the respondent is not in a position to furnish bank guarantee. It is well-settled that in a case of money claim, ordinarily, stay is not granted, but in cases where it could be shown that the judgment debtor would not be entitled to realise back the amount from the decree holder in the event of his success in appeal, stay is usually granted. In the present case, from the aforesaid facts, it becomes clear that in case amount is allowed to be withdrawn, which runs into several lacs, it would not be possible for the judgment debtor to realise the amount from the respondent. This being the position, we are of the view that the High Court, in the facts and circumstances of the case, has failed to exercise jurisdiction in refusing to grant stay.

At this juncture, learned counsel for the State, on being asked by the Court, stated that in the year 1997 they were offering the respondent Rs.1,50,000/-. If the amount would have been paid to the respondent at that time, the same could have been doubled by this time. This being the position, we are of the view that the respondent should be permitted to withdraw a sum of Rs.3,00,000/- (Rupees three lacs only) without furnishing any security.

For the foregoing reasons, the appeal is allowed, impugned order passed by the High Court is set aside and it is directed that pending disposal of the revision application before the High Court, the respondent shall be permitted to withdraw a sum of Rs.3,00,000/- (Rupees three lacs only) out of the sum deposited by the appellant before the Appellate Court and the balance amount shall be invested in a Nationalised Bank for a specified period fixed by the Appellate Court. No costs.

.....J.
(B.N. Agrawal)

.....J.
(H.K. Sema)

New Delhi,
August 13, 2004.