

ITEM NO.30

COURT NO.11

SECTION IX

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(s).8944/2010

(From the judgement and order dated 25/01/2010 in CA No. 4871/2008
in FA No. 2185/2005 of The HIGH COURT OF BOMBAY)

KALPATARU (INDO SAIGAON) CON. PVT. LTD.

Petitioner(s)

VERSUS

BHAGWAN L. AHUJA AND ORS.

Respondent(s)

(With prayer for interim relief)

Date: 16/08/2010

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)

Mr.R.F.Nariman, Sr.Adv.
Ms.Indu Malhotra, Sr.Adv.
Mr.Robin Jai Singhanian, Adv.
Ms.Richa Singh, Adv.
Mr.Nar Hari Singh, Adv.
Mr. Vikas Mehta,Adv.

For Respondent(s)

Mr.C.A.Sundaram, Sr.Adv.
Ms.Rohini Musa, Adv.
Ms. Binu Tamta,Adv.

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

Heard learned counsel for the parties.

At the fag end of the arguments, Mr.R.F.Nariman, learned senior counsel appearing for the petitioner very fairly stated that in view of report dated 28.06.2010 sent by Metropolitan Magistrate, Court No.61, Kurla (Mumbai), this Court may direct that the space meant for shop Nos. 1 to 3 be kept vacant and no third party rights shall be created till the disposal of appeal by the High Court.

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Finding that the statement made by the learned counsel was very fair, we started dictating the order but before we could complete the order, Mr.Vikas Mehta, learned counsel assisting Mr.Nariman first stated that a tenant is occupying the space earmarked for shop Nos.1 to 3. He then changed his statement and gave out that somebody is unauthorisedly occupying that portion. The third statement made by the learned counsel was that the shop

is occupied by the tenant.

In order to clear the confusion, we direct that an affidavit be filed on behalf of the petitioner whether or not any person has been inducted as a tenant in the open space identified in the chart prepared by the Metropolitan Magistrate which is available at page No.251 of the paperbook. If the tenant has been inducted, the date of induction along with the documents by which the tenancy was created should be filed along with the affidavit. The needful be done within a period of seven days.

List the case on 25.08.2010.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master