

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(s).18401/2010

(From the judgement and order dated 16/12/2009 in FAO No.  
630/2009 of The HIGH COURT OF DELHI AT N. DELHI)

TODAY HOMES & INFRAST.P.LTD. Petitioner(s)

VERSUS

SHAILAJA FINANCE LIMITED Respondent(s)

Date: 26/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. Harish N.Salve, sr.Adv.  
Mr. Mukul Rohtagi, Sr.Adv.  
Mr. Vivek sibal, Adv.  
Mr. Pooja M.Sangal, Adv.  
Mr. P.N. Puri, Adv.

For Respondent(s) Mr. Abhijit Sengupta, Adv.

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

Mr. Abhijit Sengupta, learned counsel  
accepts notice for the sole respondent.  
Leave granted.  
The appeal is allowed in terms of the  
signed order.

(O.P. Sharma) (Aruna Seth)  
Court Master Court Master  
(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5997 OF 2010  
(Arising out of SLP(C)No.18401/2010)

TODAY HOMES & INFRASTRUCTURE PVT.LTD. APPELLANT

VERSUS

SHAILAJA FINANCE LIMITED RESPONDENT

O R D E R

Mr. Abhijit Sengupta, learned counsel accepts notice for the sole respondent.

2. Leave granted. Heard the parties.

3. The respondent filed a suit for recovery of Rs.52.5 lakhs being the advance paid by it to the appellant towards proposed sale of five shops in a Mall at Ludhiana with interest thereon (in all Rs.71.4 lakhs). The said suit was filed on 12.5.2009 in the Delhi High court. The respondent also filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure to restrain the defendant-appellant from alienating another property of the defendant-appellant situated at Gurgaon. As the appellant contended that the Gurgaon property was already sold by it, a learned Single Judge disposed of the application by order dated 2.12.2009 directing the appellant to deposit the principal amount of Rs.52.5 lakhs within four weeks. The appeal filed by the appellant was dismissed by a Division Bench of the High court on 16.12.2009. The said order is challenged in this appeal by special leave.

4. The learned counsel for the appellant submitted that the appellant will be put to great hardship if it is required to make cash deposit of Rs.52.5 lakhs as it was involved in a litigation with the Government of Punjab and the Ludhiana Improvement Trust Board. It is also submitted that appellant is willing to offer property security.

5. On the facts and circumstances, we are of the

view that interest of justice would be served if the  
appellant is permitted to furnish an unconditional  
bank guarantee for Rs.52.5 lakhs to the satisfaction  
of Registrar of the High Court within four weeks from  
today, instead of depositing the said sum. The  
appellant shall keep the Bank-guarantee renewed until  
the suit is disposed of. We, allow this appeal and  
modify the order of the High Court accordingly.

.....J.  
( R.V. RAVEENDRAN )

.....J.  
( H.L. GOKHALE )

NEW DELHI,  
DATED JULY 26, 2010.