

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3576 OF 2005

NAVATAR PARIKH INDUSTRIES & ANR.

.....APPELLANTS

VERSUS

MALTI EXPORTS & ORS.

.....RESPONDENTS

O R D E R

This is an appeal for setting aside order dated 18.03.2005 passed by the National Consumer Disputes Redressal Commission (for short, 'the National Commission') in O.P.No.92 of 1997 whereby the appellants were directed to pay Rs.14,61,850/- to the respondents herein with interest at the rate of 6% per annum from the date of the complaint.

On 11.04.2011, the matter was referred to the mediation of Justice D.P.Wadhwa (former Judge of this Court).

The report sent by Justice D.P.Wadhwa shows that on 08.07.2011, the appellants had agreed to pay Rs.12.5 lakh to the respondents but in view of some settlement arrived at between the appellants and Lift and Shift India Private Limited before the Company Law Board whereby the latter had agreed to share the liability with the appellants in the ratio of 46.5 and 53.5, the latter changed its stance. On 20.9.2011, Shri S.K. Pandey appeared on behalf of the appellants and made a statement before the learned Mediator that his clients would make an application

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before this Court for an appropriate order in the light of the order passed by the Company Law Board and, in case, the application is not allowed then they would pay the whole amount to the respondents. For the sake of reference, relevant portions

of order dated 29.08.2011 passed by the Mediator is extracted

below:

"Learned counsels of both the parties agreed that the matter be adjourned to 12.09.2011.

Accordingly the matter is adjourned to 12.9.2011 at 4.30 P.M.

Mr.Pandey says he represents both the Appellants. He further states that the claim is against the Appellants as well as 3rd Respondent, who are all therefore, liable. Mr. Pandey says that the amount of Rs.12.5 lakh agreed to by him earlier, should be split between the two Appellants and the 3rd Respondent in equal share. Third respondent is not before me.

Mr. Pandey says that he has filed an application in the Hon'ble Supreme Court for appropriate orders. It was filed on 17.8.2011. Mr. Pandey further says if the Hon'ble Supreme Court does not allow the application he would pay the whole of the amount as agreed to, to the Respondent, Malti Export, through Mr.Rana Ranjit Singh, learned Advocate for the Respondents. Mr.Rana Ranjit Singh accepted the same subject to Appellants pay full amount as agreed to in the mediation proceedings held on 8.7.2011. These mediation proceedings were signed by both the learned Counsels of the parties. Mr.Pandey gave a cheque for Rs.5,81,250/- to Mr.Rana Ranjit Singh, learned Advocate for the Respondents. This Mr.Rana Ranjit Singh says he accepts without prejudice to his right to claim full amount as per settlement in mediation which is legal and binding. Mr.Pandey says if the application filed by him before the Hon'ble Supreme Court is not accepted, he will pay further half of the amount as agreed to, to the Respondents."

It is borne out from the record that the appellants had filed an application for impleadment of Lift and Shift India Private Limited as party respondent, which was allowed by this

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Court on 08.12.2009. The Court had ordered issue of notice to the newly impleaded respondent but there is no report regarding service of notice on the said respondent.

Shri K.K.Rai, learned senior counsel appearing for the appellants stated that in view of order dated 29.08.2011 passed by the Mediator, his clients would pay the balance amount to the respondents within one month and avail appropriate legal remedy for recovery of 53.5% share from Lift and Shift India Private Limited.

In view of the above developments, the appeal is disposed of as infructuous.

All the pending I.As are also disposed of.

.....J.
(G.S.SINGHVI)

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

NEW DELHI;
DECEMBER 8, 2011.

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ITEM NO.104

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 3576 OF 2005

NAVATAR PARIKH INDUSTRIES & ANR.

Appellant (s)

VERSUS

MALTI EXPORTS & ORS.

Respondent(s)

Date: 08/12/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Appellant(s)

Mr.K.K.Rai, Sr.Adv.

Mr.S.K.Pandey, Adv.

Mr.Awanish Kumar, Adv.

Mr. Krishnanand Pandeya,Adv.

For Respondent(s)

Mr. Rana Ranjit Singh,Adv.

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

The appeal is disposed of as infructuous in terms of the
signed order.

All the pending I.As are also disposed of.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)