

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

Peti tio n (s) for Speci al Leave to Appe al (Civi l) No(s) . 1 2 1 4 0 / 2 0 0 9

(F r o m the judge m e n t and order dated 30/01/2 0 0 9 in AP D
No.

27 8/2 0 0 8 of The HIGH COUR T OF CA L C U T T A)

J A I N EN C L A V E P V T . L T D .

Peti tio n e r (s)

VER SU S

INT E R N A T I O N A L C O N S T R U C T I O N L T D .
s)

Respo n d e n t (

(Wit h praye r for interi m relief)

WITH SL P (C) NO. 12 5 4 5 of 20 0 9

(Wit h praye r for interi m relief and office repor t)

SL P (C) NO. 12 5 4 6 of 200 9

(Wit h praye r for interi m relief and office repor t)

Date: 06/07/2 0 0 9

This Peti tio n w a s called on for heari n g today.

COR AM :

HON'BLE MR. J U S T I C E V. S. SIR P U R K A R

HON'BLE DR. J U S T I C E B.S. CHA U H A N

Fo r Peti ti o n e r (s)

Mr. Ajay Ku m a r Gup t a, Ad v.

Mr. Par t h a Sil, A d v .

Mr. Abhi s h e k Sa r k a r , Adv.

Fo r Respo n d e n t (s)

Mr. R. Bach a w a t , Ad v.

Mr. San j a y Ginodi a, Ad v.

Mr. San t o s h Kri s h n a n , Ad v.

Mr.Sen t h i l J a g a d e e s a n , A d v .

UPO N heari n g couns el the Cour t made the follo w i n g
O R D E R

Heard Mr. R. Bach a w a t , lear ned couns el appea r i n g
for Respo n d e n t s . This is a mat te r w h e r e the challenge is to the

order s passed by the Divi sio n Bench and the Single J u d ge of the

High Cour t directi n g to deposi t certai n amo u n t s . In one mat te r
amo u n t of five lak h s w a s directed to be deposi ted, w h i l e in other s

Rs. 44.5- lak h s

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and Rs. 90 lak h s have been directed to be deposi ted.

The deposi t

w a s directed to be made on the basis of the applica t i o n made by

the respo n d e n t under Order XII Rule 6, CPC.

The Cour t did not

pass any decree, but directed the defend a n t to deposi t the amo u n t,

as afores a i d, and gran te d leave to defen d.

Lear n e d couns el appea r i n g on behal f of the appell a n t

pointed out that in Kiran moyee Dassi vs. Dr. J.Chatterjee reported in Volume- 49, Calcutta Weekly Notes, Page 246, the case on which the trial court has relied upon, no such relief was granted by the trial court.

We are not in a position to agree with the learned counsel.

In Kiran moyee Dassi's case, observations are to the effect that a judgment could be made in that case on admission. The situation is different here. All that the court has done here is that it has granted leave to defend only after the ordering that the plaintiff will deposit the amounts which are reflected in the balance sheets of the defendants. That has been viewed as admission of the claim. There is no judgment passed by the trial Court. There is nothing wrong with the order. In an application under Order 12 Rule 6 the Court could certainly pass such order. However, keeping in view the overall situation, we direct that while the order directing deposit of Rs. 5 lakhs would remain intact, insofar as the other two amounts are concerned, we modify the orders to the effect that instead of depositing the full amount, as directed, 3/4th of the

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amount shall be deposited.

With this modification we dispose of the Special Leave Petitions. Time to deposit the amount is extended by another one month from today. We make it clear that the observations made herein would not be used for resolving the controversy ultimately.

(Hemalatha Mohan)
Sr. P . A .

(Shashi Bala Vij)
Court Master