

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). 6397 of 2002

M/s. PML Industries Ltd., Chandigarh & Anr.

Appellant (s)

VERSUS

Board for Industrial & Financial Reconstruction & Ors.

Respondent(s)

(With appl(s) for vacating stay and impleadment and directions with office report)

Date: 15/02/2006 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN
HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant(s) Mr. M.L. Varma, Sr. Adv.
Mr. Rohan Thawani, Adv.
Mr. Prashant Kumar, Adv.

For Respondent(s) Mr. C.A. Sundaram, Sr. Adv.
For R-3 Mr. Suman Jyoti Khaitan, Adv.
Mr.P.S. Sudheer, Adv.
Ms. Anne Mathew, Adv.
Mr. Narender K. Verma, Adv.

For R-6 Mr. S.L. Gupta, Adv.
Mr. R.K. Dixit, Adv.
Mr. Chander Shekhar Ashri, Adv.

For R-8 Mr. Balraj Dewan, Adv.

For R-7 Mr. Rajiv Shakdher, Sr. Adv.
Mrs. Padmavathy, Adv.
Ms. Anjubala, Adv.
Mr. Prashanthi Prasad, Adv.

For Impleadment Mr. Vishwajit Singh, Adv.

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

The Appeal is dismissed as withdrawn.

The application for impleadment is allowed. The sum of Rupees one crore deposited by the applicant/intervener (Abhinav Futuristic Ltd.) with the Registrar General of this Court in pursuance of our order dated 6th of

December, 2005 be returned to the applicant within a week from today.

(J.S. Rawat)

(Kanwal Singh)

AR-cum-PS

Court Master

[Signed order is placed on the file].

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6397 OF 2002.

M/s PML Industries Ltd., Chandigarh & Anr.

...Appellant s

Versus

Board for Industrial & Financial

Reconstruction & Others

...Respondent (s)

O R D E R

Mr. M.L. Verma, learned senior counsel appearing for the appellants after

seeking instructions states:-

In view of the changed circumstances by passage of time and in view of the economic liberalization and globalization, the company can be revived because, inter alia, there is a non-resident investor who is interested in pumping money into the company to help it to get back on its legs and that the company has also some orders particularly in view of the fact that Pakistan, Turkey and certain other countries are now accepting import of frozen buffalo meat on account of which it would be possible

for the company's turn over to increase so that not only the money that comes in from the investor but also because of the turn over the company, the company should and would have enough funds to be able to pay up the debts and manage the company. In view of the foregoing, he prays, on instructions, that the appellants may be permitted to withdraw the appeal with liberty to approach the Board for Industrial and Financial Reconstruction (BIFR).

In view of the statement of the counsel appearing for the appellant, the

appeal is dismissed as withdrawn reserving liberty with the appellant to approach the

BIFR disclosing the name of the investor along with the details of funds to be

deployed by him and the orders for supply of products of the company received so far.

This may be done in a sealed cover within four weeks from today. On the submission

of such proposal, the BIFR shall consider the genuineness of the investor, funds to be

deployed by him and orders received for supplying the products produced by the

appellants on consideration whereof, if the BIFR is prima facie satisfied that the

company can be turned around by the existing management, it may permit the

appellant to submit a scheme for revival in accordance with law. The proposal put

forth by the appellant regarding the investor, orders for supply, etc. shall be examined

by the BIFR in accordance with law and dispose it of within eight weeks from the date

of submission of the proposal. If the BIFR is satisfied about the genuineness thereof,

then it may permit the appellant to submit a scheme for revival.

In this case, the appellants have expressed their apprehension about

disclosing the name of the investor and, therefore, we have permitted the appellants to

furnish details in a sealed cover to BIFR. It appears in a sealed cover. The name of

the investor in particular is not being disclosed by the appellants saying that their

competitor might sabotage their proposal to revive the company. We may clarify that

in order to ascertain the genuineness and viability of the proposal, BIFR may call for

requisite particulars from the appellants regarding funds to be deployed, orders

received and receivable from the customers without disclosing the name of the

investor.

In case the BIFR is not satisfied about the genuineness and viability of the above proposal, the impugned order shall stand revived.

Since the appeal is being dismissed as withdrawn at the instance of Mr. M.L. Verma, learned senior counsel, we are not going into the correctness of the submissions or otherwise of the impugned judgment.

The application for impleadment stands allowed. The sum of Rupees one crore deposited by the applicant/intervener (Abhinav Futuristic Ltd.) with the

Registrar General of this Court in pursuance of our order dated 6th of December, 2005

be returned to the applicant within a week from today.

.....J.

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(ASHOK BHAN)

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.....J.

(S.H. KAPADIA)

New Delhi.

February 15, 2006.