

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).6556/2009

(From the judgement and order dated 04/03/2009 in WP No. 5591/2008 of The HIGH COURT OF BOMBAY)

MUMBAI INTERNATIONAL AIRPORT P.LTD.

Petitioner(s)

VERSUS

M/S GOLDEN CHARIOT AIRPORT & ANR.

Respondent(s)

(With appln(s) for permission to file Volume-II and Volume-III and permission to place addl. documents on record and with prayer for interim relief and office report)  
(For final disposal)

WITH SLP(C) NO. 11663 of 2009

(With appln.for exemption from filing c/c of the impugned judgment and with prayer for interim relief and office report)

Date: 11/05/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s)

Mr.Mukul Rohtagi, Sr.Adv.

Mr.Amar Dave, Adv.

Mr.Ashish Jha, Adv.

Mr.Rahul Pratap, Adv.

Mr.Ninad Laud, Adv.

For M/S. "Coac",Adv.

M/S. M.V. Kini & Associates, Adv.

For Respondent(s)

Mr.Ramji Srinivasan, Sr.Adv.

Mr.Mukesh Kumar, Adv.

Ms.Meenakshi, Adv.

Mr.Pravin Jain, Adv.

M/S. M.V. Kini & Associates,Adv.

Mr.Shyam Divan, Sr.Adv.

Gp.Capt.Karan Singh Bhati,Adv.

Mr.Vinay Hegde, Adv.

Ms.Aishwarya Bhati, Adv.

Mr.Rashid Khan, Adv.

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

Heard learned counsel for the parties.

Today when the matters were taken up before this Court, this Court was informed by Mr.Mukul Rohtagi, learned senior counsel for the petitioners that pursuant to the order of this Court dated

11.02.2010 the Estate Officer has decided the matter and passed an order dated 29.04.2010. Impugning the said order, the respondents have filed an appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 before the Principal Judge, Bombay City Civil Court, Mumbai. Mr.Rohtagi submitted that such filing of appeal before the aforesaid judicial authority in view of the directions contained in that order amounts to an act of contempt. He further submitted that in any

event, the said filing of appeal circumvented the order of this Court dated 11.02.2010. Mr.Shyam Divan, learned senior counsel appearing on behalf of the respondents, on the other hand, contended that his client has filed the said appeal in view of the statute made by the Parliament and his client has exercised that right. According to him, such right of appeal cannot be taken away by any order of this Court. In support of his argument, he cited several decisions of this Court.

Mr.Rohtagi, learned senior counsel also in support of his submission cited several decisions and submitted that this Court passed the order in order to prevent conflict of decisions and also considering the facts and circumstances and the question of

3

public interest involved in this case namely the urgency of expanding Bombay Airport and the right of the respondents to run their restaurant in the said Airport.

This Court, however, by balancing the equity had passed the said order and the said order does not decide the questions that are raised in the SLPs which are pending and over which this Court retains its seisin. We are of the view that by the order which has been passed namely the order dated 11.02.2010, the right of the respondents to file an appeal has not been taken away. This

Court preserved the right of the respondents and also permitted them to challenge the order that may be passed by the Estate Officer by filing an appropriate additional affidavit before this Court.

In view of the above, this Court directs that the appeal

which has been filed by the respondents (Misc.Appeal No.50 of 2010) before the Principal Judge, City Civil Court, Mumbai be transferred to this Court. The record of the said appeal may form part of these SLPs. The petitioners are at liberty to file any additional affidavit in answer to the appeal filed by the respondents. The respondents may also file reply to the same. Such filing must be completed by the parties by 09.07.2010.

The matter may be placed for further consideration before this Court on 14.07.2010.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master