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C.A.No. 5985 OF 1997

ITEM No.107

Court No. 10

SECTION IV

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

Civil Appeal No. 5985 of 1997

STATE OF HARYANA

Appellant (s)

VERSUS

PRAGATI SILENCERS (P) LTD. Respondent (s)

(With office report)

Date : 21/08/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. Neeraj Kumar Jain,Adv.  
Ms. Kavita Wadia,Adv.

For Respondent (s)Mr. H.C. Sukhija,Adv.  
Mr. K.C. Dua,Adv.

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

Heard learned counsel for the parties from 11.40 a.m. to 12.00 noon.

The civil appeal is dismissed.

No costs.

[ T.I. Rajput ] [ Shelly Sengupta ]  
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5985 OF 1997

State of Haryana ...Appellant(s)

Versus

Pragati Silencers (P) Ltd. ...Respondent(s)

O R D E R

The learned counsel for the appellant made grievance that the High Court was not right and justified in dismissing the revision petition by a single line order. The learned counsel contended that the contentions that were really urged were not at all considered by the High Court.

In the light of this submission, we wanted the learned counsel to take us through the order passed in the appeal against which revision was filed before the High Court. The order in appeal was passed by the learned Additional District Judge, Yamuna Nagar at Jagadhri. The appeal was filed before the learned District Judge against the order dated 17th January, 1995 passed by the Registrar, who had ordered the respondent herein to pay a sum of Rs.1,33,685/- as stamp duty on a sum of Rs.8,62,125/-. The dispute had arisen about the agreement dated 5th June, 1990, which was

...2/-

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got registered in the office of the Sub-Registrar at Jagadhri; an audit objection was raised on 1st September, 1994 under Section 31 of the Stamp Act; and the controversy was that the agreement was, in fact, a sale deed and not an agreement. The learned District Judge, as can be seen from the order passed by him on 3rd May, 1996, after consideration of the material placed on record and looking to the very document, namely the agreement afore-mentioned, concluded that it was not a sale deed but it was an agreement. The learned District Judge also held that the action taken by the Registrar was clearly barred by time, stating that the agreement dated 5th June, 1990 was registered on the same day but the audit objection was taken on 1st November, 1994, i.e., after a period of three years and five months. The learned counsel for the appellant contended, before us, that the appeal itself was not maintainable before the District Judge. We specifically asked the learned counsel, apart from the fact whether the appeal was maintainable or not, whether the action initiated by the Registrar was within time. He found difficulty in supporting the action taken after a period of three years. This apart, it appears that no ground was taken before the High Court on the question of limitation. Under the circumstances, although the impugned order is not a speaking order, on merits, we find no justification to interfere with the impugned order. Accordingly the civil appeal is dismissed. No costs.

.....J.  
[SHIVARAJ V. PATIL]

.....J.  
[D.M. DHARMADHIKARI]

New Delhi,  
August 21, 2003.