

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 8534 OF 2009

M/S. M. B. DEVELOPMENT CORPORATION ... Appellant

VERSUS

STATE OF MAHARASHTRA & ORS. ... Respondents

WITH

CIVIL APPEAL NO. 8535 OF 2009

O R D E R

We have heard learned counsel appearing for the parties.

For the sake of convenience, the facts in Civil Appeal No. 8534 of 2009 are taken note of, which are as hereinbelow:

The appellant herein had filed Suit No. 7476 of 1990 before the Bombay City Civil Court in the matter relating to strip of land known as CTS No. 841 situated at Sewri, Mumbai. This Suit was dismissed by the trial Court vide its judgment and decree dated 29.04.2002/20.07.2002. Against the said judgment and decree, the appellant preferred First Appeal No. 106 of 2003 in the High Court of Bombay which is still pending for final hearing.

In the meantime, respondent Nos. 2, 4, 6 and 7 filed two Suits before the City Civil Court, Bombay, particulars whereof are as under:

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(1) Suit No. 4416 of 1992

(2) Suit No. 2889 of 1994

In these suits, the appellant is also one of the defendants. The appellant filed applications in these Suits under Section 10 of the Code of Civil Procedure (CPC) for stay of the proceedings in the Suits on the ground that Suit No. 7476 of 1990 which was filed by the appellant was prior in point of time and having regard to the commonality of issues in the Suit filed by the private respondents herein, the proceedings in these Suits should be stayed, lest they could lead to contrary findings, till the outcome of the appeal which was filed by the appellant and is pending in the High Court of Bombay. The trial Court after hearing both the parties dismissed the said application. Challenging the order, petitions under Article 227 of the Constitution were filed by the appellants which were dismissed by the High Court on 21.09.2005 on the ground that the trial in both the Suits were practically complete as the Courts had finished the recording of evidence and even the arguments were heard partly. These orders were challenged by filing special leave petitions in this Court. Submission of the appellants in the said petitions was that the aforesaid reason given by the High Court while dismissing the writ petitions was not correct. Having regard to the aforesaid submission, this Court disposed of the special

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leave petitions vide order dated 21.11.2005 leaving it open to the appellants to move the High Court for appropriate relief. The appellants approached the High Court again seeking review of its order. These petitions have been dismissed vide impugned order dated 05.04.2006. The High Court has reiterated that recording of evidence is over and both the suits are ripe for hearing and, therefore, there is no reason to recall or modify the earlier order dismissing the writ petitions. It is this order, validity whereof is the subject matter of these appeals.

Since the High Court has reiterated that evidence in both the suits is over and the suits are ripe for final hearing and there is no reason to disbelieve this statement contained in the impugned order, we do not find it to be a fit case for allowing the applications filed by the appellants under Section 10 of CPC. These appeals are, accordingly, dismissed.

Since suits are quite old which were filed in the year 1992-1994, we impress upon the City Civil Court to now proceed to hear the arguments in the Suits and decide the same expeditiously.

At the same time, we find that Appeal No. 106 of 2003 preferred by the appellants against judgment and decree dated 29.04.2002/20.07.2002 passed by the City Civil Court in Suit No. 7476 of 1990, is also almost 15 years old and, therefore, it would be in the fitness of things that the

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High Court decides the said appeal as expeditiously as possible.

The appeals are dismissed with the aforesaid observations.

....., J.  
[ A.K. SIKRI ]

....., J.  
[ ASHOK BHUSHAN ]

New Delhi;  
September 13, 2017

ITEM NO.106

COURT NO.6

SECTION IX

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. 8534/2009

M/S. M. B. DEVELOPMENT CORPORATION

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Respondent(s)

WITH

Civil Appeal No. 8535/2009

Date : 13-09-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s)

Mr. P. N. Gupta, AOR

For Respondent(s)

Mr. Atul Yeshwant Chitale, Sr. Adv.  
Ms. Suchitra Atul Chitale, AOR

Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Arun K. Sinha, AOR

Mr. V. N. Raghupathy, AOR

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

The appeals are dismissed in terms of the signed order.

(NIDHI AHUJA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

[Signed order is placed on the file.]

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