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SLP(C)No. 13429 OF 2000

ITEM No.202

Court No.12

SECTION IX
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.13429/2000

(From the judgement and order dated 05/05/2000 in AN 227/00 ,SS
1818/98 of The HIGH COURT OF BOMBAY)

ARPAN LEASING COMPANY

Petitioner (s)

VERSUS

BALKISAN BADRINARYAN MANIYAR & ORS.

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for permisstion for filing judgt. dated 15.12.99)
(For Final Disposal)

Date : 25/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.P. SETHI
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Petitioner (s) Mr. R.F.Nariman,Sr.Adv.
Mr. Deepak M.Nargolkar,Adv.

For Respondent (s) Mr. P.P.Malhotra,Sr.Adv.
Mr. Vipul Maheshwari,adv.
Mr. Jabar Singh,adv.
Ms. Sandhya Goswami,Adv.

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

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Heard Mr. R.F.Nariman, learned senior counsel
appearing for the appellant and Mr. P.P.Malhotra, pearned
senior counsel appearing for the respondents for twenty
five minutes.

Leave granted.
Appeal is allowed.

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(Suman Wadhwa) (S.Malkani)
Court Master Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2002@@
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(Arising out of SLP(C)No.13429/2000)

Arpan Leasing Company ...Appellant

Vs.

Balkisan Badrinaryan Maniyar & Ors. ...Respondents

ORDER@@
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Leave granted.

In a summary suit filed by the appellant learned Single Judge of the High Court granted leave to the respondents to defend the suit on despising Rs.25 lakhs or furnishing security in the like amount to the satisfaction of Prothonotary and Sr. Master within 12 weeks from the date of the order.

Being not satisfied with the order of the learned Single Judge the respondents herein preferred an appeal which was disposed of by the Division Bench vide the order impugned in this appeal by setting aside the order of the learned Single Judge and granting unconditional leave to defendants 2 and 3 to defend the suit.

We have perused the plaint and the relevant record and find that the learned Single Judge was justified in holding that as no serious objections seem to have arisen, leave to defend the suit be granted on the condition specified in his order. The Division Bench

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was not justified in disturbing the finding the setting aside the order of the learned Single Judge without referring to the ground and the basis upon which leave was granted subject to the payment of amount or furnishing security.

The appeal is accordingly allowed by setting aside the order of the Division Bench impugned herein and restoring the order of the learned Single Judge. The respondent-defendants 2 and 3 are allowed twelve weeks' further time from today to comply with the direction of the learned Single Judge.

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.....J.
(R.P.SETHI)

New Delhi
January 25, 2002

.....J.
(K.G. BALAKRISHNAN)