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SLP(C)No. 12384 OF 2000

ITEM No.1

Court No.11

SECTION XVI
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.12384/2000

(From the judgement and order dated 18/05/2000 in APO 620/99
of The HIGH COURT OF CALCUTTA)

NARAYAN PRASAD LOHIA

Petitioner (s)

VERSUS

NIKUNJ KUMAR LOHIA & ORS.

Respondent (s)

(With appln. for substitution to bring on record the legal
heirs of deceased respondent No. 3 and office report)
(For final disposal)
With

SLP(C)No.13123/2000

(With appln. for bringing LR's. of deceased respondent No. 3 on
record with affidavit and with prayer for interim relief and
office report)
(For final disposal)

Date : 16/01/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s) Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Manoj Saxena, Adv.
Ms. Nadira Patharia, Adv.
Mr. Pravir Choudhary, Adv.

For Respondent No.1 Mr. Jaideep Gupta, Adv.
Ms. Neeru Vaid, Adv.

For R-2 Dr. A M Singhvi, Sr. Adv.
Mr. Anil Agarwal, Adv.
Mr. Amit Bhat, Adv.
Mr. K.V. Vijayakumar, Adv.

For R-3,4 Mr. Dipankar Gupta, Sr. Adv.
Ms. Bina Madhavan, Adv.
Mr. S Singhvi, Adv.

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

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Substitution applications are allowed.

A similar question, as is involved in this case, came up before a Bench of this Court in the case of Dodsai Private Ltd. vs. Delhi Electric Supply@
CC
Undertaking of the Municipal Corporation of Delhi@
CC
(1996) 2 SCC 576. In that case this Court felt that the question whether a mandatory provision of the Arbitration Act can at all be waived requires consideration by a larger Bench in view of an earlier judgment of this Court in Waverly Jute Mills Co. Ltd.@@
CC
vs. Raymon and Co. (India) P. Ltd. (1963) 3 SCR@@
CC
209. In the said view of the matter the Bench referred the question to a larger Bench of this Court. It is now noticed that the said Constitution Bench, which was seized of the referred case, did not decide that issue as could be seen from its decision dated 19th July, 1996 in Dodsai Private Ltd. vs. Delhi@
CC
Electric Supply Undertaking of the Municipal@
CC
Corporation of Delhi Civil Appeal Nos. 2372-2374 of@@
CC
1987 {1996 (7) SCALE (SP)1}, but decided the issue on other grounds.

Since that question has not yet been decided and question involved is an important question of law likely to arise in future cases, we feel it
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appropriate that this issue should be decided by a larger Bench, of at least three Hon'ble Judges and hence, refer the petitions, namely, SLP(C) 12384 and 13123 of 2000 to a Bench of three Hon'ble Judges.

Accordingly, the Registry is directed to place the papers before Hon'ble the Chief Justice for suitable orders.

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(Prem Prakash) (Kanchan Jain)
Court Master AR-cum-PS