

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.13340/2000

(From the judgement and order dated 11/07/2000 in FMAT 1762/00
of The HIGH COURT OF CALCUTTA)

V.K.THAKKAR PROPERTIES PVT. LTD.

Petitioner (s)

VERSUS

B.K.JAIN & ORS

Respondent (s)

(With prayer for interim relief and office report)
(For Final Disposal)

Date : 10/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s) Mr. S.B. Sanyal,Sr.Adv.
Mr. S.C. Ghosh,Adv.
Mr. Ranjan Mukherjee,Adv.
Ms. Manita Verma,Adv.

For Respondent (s) Mr. P. Chidambaram,Sr.Adv.
Mr. Jaydeep Gupta,Adv.
Ms. Anu Mohla,Adv.

UPON hearing counsel the Court made the following
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.SP2

leave granted. Appeal is disposed of.

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(Ganga Thakur)
P.S.to Registrar

(V.P. Tyagi)
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.6338 OF 2000@@
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(Arising out of S.L.P. (C) No. 13340 of 2000)

V.K. Thakkar Properties Pvt. Ltd.

Appellant

Versus

B.K. Jain & Ors.

Respondents

O R D E R@@
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Leave granted.

Heard learned counsel for the parties.

The present appeal is directed against the High Court order confirming the order passed by the trial court by which it granted opportunity to the respondents to file written objections to Section 8 application. An application under Section 8 of the Arbitration Act, 1996 was filed by the applicant raising objections against the appointment of Mr. P.K. Jain as the arbitrator, which is also raised with vehemence before us. We do not think it proper to adjudicate this when this matter is to be considered by the trial court. On the other hand learned counsel for the respondent submits that both this application under Section 8 and the suit are not maintainable. For the same reasons we would not like to enter into this area, when the matter could be raised before the trial court. Suffice it to say, the order passed by the trial court, merely granting time for filing objections through the impugned order does not call for any interference by this Court.

Learned senior counsel Mr. S.B. Sanyal appearing for the appellant submits that in case in the meantime the arbitrator concludes the arbitration proceedings the applicant would be prejudice and the very objection raised would become infructuous. However, we do not find anything placed before us which makes this application infructuous. But we do observe that the arbitration proceedings may go on, however, the arbitrator shall not sign the award till the disposal of the aforesaid Section 8 application and this shall be subject to the order to be passed by the court.

Looking to the facts and circumstances of this case, it is appropriate that the application under Section 8 be disposed of expeditiously preferably within a period of 8 weeks from the day of the certified copy of this order is filed before the trial court. With the aforesaid observation the present appeal is disposed of.

.....J.
(A.P. Misra)

New Delhi.
November 10, 2000

.....J.
(Doraiswamy Raju)