

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 7104 OF 2009

MAGMA LEASING LTD.

Appellant(s)

VERSUS

M/S.HCL INFOSYSTEMS LTD.

Respondent(s)

O R D E R

The appeal arises out of the impugned Judgment and order dated 04.03.2008 passed by the High Court of Delhi at New Delhi in Company Appeal No. 46 of 2006, whereby the Division Bench of the High Court has affirmed the Order passed by the learned Single Judge.

In the Company Petition filed before the learned Single Judge, the dispute arose with regard to liability of payment of interest by the respondent - company to the appellant on the delayed payment of lease installments by BHEL, as per Clause 4 of the Agreement dated 11.11.1998. The Company Judge held that some of the claims for payment of interest made by the appellant would be barred by limitation whereas some claims would be within the limitation period. A direction was also issued to carry out fresh calculations.

Aggrieved by the aforesaid order, an appeal was preferred before the Division Bench, where it was contended by the learned counsel for the appellant that there was acknowledgement of default and therefore, it was not proper for the learned Single Judge to hold that some of the claims were barred by limitation. The High Court came to the conclusion that the findings of the Company Judge that the cause of action for default of each installment arose separately, was justified and since the period of limitation for any recovery is three years and the period of limitation was over, the parties have to go back three years from the date of filing the company petition i.e. 17.03.2005 to the date when the installment was belatedly paid by BHEL. Regarding the acknowledgement of default, the High Court held that there was no acknowledgement on the part of the respondents. Hence, the present appeal.

We have heard the learned counsel for the respondent at length. We have perused the orders passed by the learned Single Judge and by the Division Bench of the High Court. We are satisfied that the order passed by the learned Single Judge was justified and the appeal has been rightly dismissed by the Division Bench. In view of the fact that there was no acknowledgement of default, we find the

appeal to be devoid of merit. The appeal is,  
accordingly, dismissed.

.....J.  
[ ARUN MISHRA ]

.....J.  
[ VINEET SARAN ]

.....J.  
[ M. R. SHAH ]

New Delhi;  
January 30, 2020.

ITEM NO.105

COURT NO.3

SECTION XIV-A

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(s). 7104/2009

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Date : 30-01-2020 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE VINEET SARAN  
HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Ms. Susmita Lal, AOR [NOT PRESENT]

For Respondent(s) Mr. V. N. Koura, Adv.  
Ms. Aruna Mathur, Adv.  
Ms. Paramjeet Benipal, Adv.  
Mr. Anupam Roy, Adv.  
Ms. Anuradha Arputham, Adv.  
for M/s. Arputham Aruna And Co.UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed  
of.(JAYANT KUMAR ARORA)  
COURT MASTER(JAGDISH CHANDER)  
BRANCH OFFICER

(Signed order is placed on the file)