

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

IA 5, 6 & 7 IN

Petition(s) for Special Leave to Appeal (Civil) No(s).12734/2008

(From the judgement and order dated 30/04/2008 in AN No. 855/2003 & NOM No. 1418/2008 of The HIGH COURT OF BOMBAY)

MESSER HOLDING LTD.

Petitioner(s)

VERSUS

SHYAM MADAN MOHAN RUIA & ORS.

Respondent(s)

Date: 13/04/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE J.M. PANCHAL
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Shyam Diwan, Sr. Adv.
Mr. Debal Banerjee, Sr. Adv.
Mr. Arvind Kumar Shukla, Adv.
Mr. Irshad Ahmad, Adv.
Mr. D. K. Gupta, Adv.
Ms. Rekha Giri, Adv.
Ms. B. Vijayalakshmi Menon, Adv.
Mr. Rajesh Aggarwal, Adv.

For Respondent(s) Mr. Ram Jethamalani, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Nakul M., Adv.
Ms. P. R. Mala, Adv.
Mr. Saurabh Ajay Gupta, Adv.
Ms. Mazag Andrabi, Adv.
Mr. Pranav Diesh, Adv.
Mr. E. C. Agrawala, Adv.

Mr. Fali S. Nariman, Sr. Adv.
Mr. Rohit Kapadia, Sr. Adv.
Mr. Subhash Sharma, Adv.
Ms. Nandini Gore, Adv.
Mrs Manik Karanjawala, Adv.
Mr. Debmalya Banerjee, Adv.
Mr. Kaushik Murali, Adv.
Mr. R.S. Suri, Adv.
M/S. K.J. John & Co., Adv.

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Mr. Rakesh Diwedi, Sr. Adv.
Mr. Makarand D. Adkar, Adv.
Mr. Vishwajit Singh, Adv.
Mr. Vijay Kumar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Interlocutory Application Nos.5, 6 & 7 in SLP (C) No. 12734 of 2008 have been filed, inter alia, for recall of the interim orders passed on 16th May, 2008 and 23rd June, 2008 and to vacate the same after dismissing the Special Leave Petition.

The aforesaid Special Leave Petition had come up for consideration before this Court on 16th May, 2008, when having heard learned counsel for the respective parties and having been informed that Appeal No.855/2003 and Appeal Nos. 840, 841 and 857 of 2003

filed on behalf of the respective parties were posted for hearing before the Bombay High Court on the next day, we had directed that all the appeals and the connected Notices of Motion be heard and disposed of together by the High Court either on the next day, or as early as possible. The Special leave Petition was disposed of with the said directions. However, while disposing of the matter, we had also indicated that the interim order passed on 16th May, 2008, would continue until the appeals were disposed of by the Bombay High Court.

What we had intended by our aforesaid order, does not appear to have materialised since from the date of the order till today, the appeals and connected Notices of Motion have not yet been disposed of. It appears that the matters came up before different Benches of the Bombay High Court but were not heard finally by the Bench for some reason or the other.

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Ultimately, the matters were posted before a Bench presided over by Hon'ble Justice P. B. Majmudar and was heard by Their Lordships on several occasions. It appears that after the hearing was concluded and judgment was reserved on 15th February, 2010, an application was made on behalf of the respondent for further hearing and, accordingly, the matters were fixed on 10th March, 2010, for the said purpose. However, on 11th March, 2010, the Bench hearing the matters chose to recuse themselves and directed the papers to be placed before the Chief Justice of the Bombay High Court to have the matters heard by another Bench. The net result is that despite our order of 23rd June, 2008, neither the appeals nor the connected Notices of Motion have been heard and disposed of. This is an unhappy state of affairs and all the parties agreed that this could not be allowed to continue. When we had intended that the matter should be disposed of at an early date and the same is reflected in our order of 23rd June, 2008, the High Court ought not to have allowed the matter to be dragged on in such a manner that even after two years, the appeals and the connected Notices of Motion have not been disposed of.

In such circumstances, we dispose of all these three applications with a request to the Chief Justice of the Bombay High Court to assign the appeals and the interlocutory applications to a Bench which would take up the matters and hear them, if possible, on day to day basis and dispose of the same within 30th June, 2010. If, for any unforeseen reason, the appeals and the connected applications cannot be disposed of within the aforesaid period, the Court should at least try to dispose of the interlocutory matters, and, in

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particular, the application out of which this Special Leave Petition had arisen before this Court. We also request the Chief Justice of Bombay High Court to ensure that the Roster is not changed so that the matters can be disposed of by the Bench to which they are assigned.

(Neetu Sachdeva)
Sr. P. A.

(Juginder Kaur)
Court Master