

B
SLP(C)No. 14261 OF 2003

ITEM No.50

Court No. 1

SECTION IX
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.14261/2003
(From the judgement and order dated 08/04/2003 in WP 1311/03
of The HIGH COURT OF BOMBAY AT AURANGABAD BENCH)

M/S. ABHAY CONSTRUCTION, MAHARASHTRA

Petitioner (s)

VERSUS

MAHARASHTRA STATE ROAD DEV.CORP.LTD.&ORS

Respondent (s)

Date : 02/08/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE G.P. MATHUR
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner (s)Mr. Uday B Dube, Adv.
Mr. Kuldip Singh, Adv.

For Respondent (s)Mr. A.S. Bhasme,Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

No order as to costs.

(D.P. WALIA)
COURT MASTER

(JANKI BHATIA)
ASSTT.REGISTRAR

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2004
[arising out of SLP(C) No. 14261 of 2003]

M/s. Abhay Construction, Maharashtra ... Appellant

vs.

Maharashtra State Road Development Corporation
Ltd. & Ors. ... Respondents

O R D E R

Leave granted.

The writ petition filed by the appellant has been dismissed in limini by the High Court forming an opinion that in view of availability of alternative remedy the writ jurisdiction was not appropriate to be invoked.

Having heard the learned counsel for the parties, we are satisfied that the writ petition filed by the appellant could not have been dismissed without any adjudication on merits. What the writ petitioner is seeking is not enforcement of contractual rights merely. The learned counsel for the appellant states that the matter can be decided merely by perusal of the documents and no other evidence is required to be adduced. It is submitted that the action taken by the respondents is challenged as being arbitrary and unreasonable. Such an issue can certainly be adjudicated upon in exercise of writ jurisdiction.

The appeal is allowed. The impugned order of the High Court is set aside and instead the case is remanded to the High Court for hearing and decision on merits.

No order as to costs.

.....CJI

.....J

(G.P. MATHUR)

.....J
(S.H. KAPADIA)

New Delhi;
August 2, 2004.