

ITEM NO.2

COURT NO.2

SECTION IX

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

I.A. NO.3 OF 2011 IN
Petition(s) for Special Leave to Appeal (Civil) No(s).17543/2011

(From the judgement and order dated 06/09/2010 in SN No.1916/2010,
NON No.2099/2010 of The HIGH COURT OF BOMBAY)

CLEARWATER CAPL.PARTNERS SINGAPORE & ANR

Petitioner(s)

VERSUS

IND SYNERGY LIMITED & ORS.

Respondent(s)

(With appln(s) for directions, permission to place addl. documents
on record and office report)

Date: 08/12/2011 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. Shekhar Naphade, Sr. Adv.
Mr. Gaurav Goel, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. E.C. Agrawala, AOR

For Respondent(s) Mr. Shyam Divan, Sr. Adv.
Mr. Tanmaya Mahta, Adv.
Mr. Shekhar Kumar, AOR

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

I.A. No.3 of 2011, has been filed in the special
leave petition, inter alia, for the following reliefs:
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"(a) grant ad-interim ex-parte order restraining
Respondent No.1, its promoters i.e. Respondent
Nos.2 to 9, directors, officers, servants and
agents from alienating, encumbering, creating a
mortgage and/or charge, dealing with, disposing
of, creating or extending any third party rights
or interests in or over the assets of Respondent
No.1 as listed and mentioned in Annexure - "D"
hereto; and

(b) grant ad-interim ex-parte injunction order
restraining Respondent Nos.2 to 9 from alienating,
encumbering, creating a mortgage and/or charge,
dealing with, disposing of, creating or extending
any third party rights or interests in or over
their respective assets as listed and mentioned in

Annexure - "E" hereto."

The special leave petition is directed against the order of the High Court relating to the existence of an arbitration clause in the agreement, which has been entered into between the parties, and the rejection of the prayer made on behalf of the petitioners under Section 8 of the Arbitration and Conciliation Act, 1996, to refer the dispute to arbitration.

There are other connected matters, which are pending before the High Court.

Having heard learned counsel for the parties, we are of the view that the special leave petition itself should be disposed of, in order to avoid the various ancillary proceedings, which have emanated from the main question as to whether the arbitration agreement allows the petitioners to pray for the dispute to be referred to arbitration. Accordingly, let the special leave petition be listed for final disposal on 19th January, 2012, fairly at the top of the list. The petitioners will be entitled to file their rejoinder affidavit to the counter affidavit filed on behalf

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of the respondents, in the meantime.

Till then, the respondents will be at liberty to sell and convey the remaining flats in the building in question, but seventy-five per cent of the sale proceeds thereof, shall be deposited with the Registry of the Bombay High Court in Suit No.1916 of 2010, pending before the learned Single Judge of the said High Court, within four weeks of each sale effected. Similarly, if any shares are sold, seventy-five per cent of the amount received, shall also be deposited in the said suit.

The pending appeal filed in the Bombay High Court by the petitioner herein, being Appeal (Lodging) No.287 of 2011, shall also remain stayed in the meantime.

I.A. No.3 of 2011, is disposed of accordingly.

(Chetan Kumar)
Court Master

(Juginder Kaur)
Assistant Registrar