

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 (Crl) No(s).6708/2010

(From the judgement and order dated 29/07/2010 in CRLA No.1344/2010 of the
HIGH COURT OF JUDICATURE AT BOMBAY)

BANSILAL S.KABRA

Petitioner(s)

VERSUS

GLOBAL TRADE FINANCE LTD.& ANR

Respondent(s)

(With appln(s) for stay and office report)
(for final disposal)

WITH SLP(Crl) NO. 628-629 of 2011

(With appln.(s) for ex-parte stay and exemption from filing c/c of the
impugned judgment)
(for final disposal)

SLP(Crl) NO. 7518 of 2010

(With appln.(s) for stay and vacating stay and office report)
(for final disposal)

SLP(Crl) NO. 8818-8819 of 2010

(With appln.(s) for stay and office report)
(for final disposal)

Date: 19/09/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s)in Mr.Ashok Desai, Sr.Adv.
SLP(Crl.)No.7518/2010 Mr.A.Mariarputham, Sr.Adv.
Mr.Prakash Gokhlaney, Adv.
Ms.Aruna Mathur, Adv.
Mr.Yusuf Khan, Adv.
Ms.Movita, Adv.
For M/S Arputham,Aruna & Co., Adv.

For Petitioner(s)in Mr.Amar Dave, Adv.
SLP(Crl.)No.6708/2010 Mr. P.S.Sudheer,Adv.
Mr.Rishi Maheshwari, Adv.
Mr.Abu John Mathew, Adv.
: 2 :

For Petitioner(s)in Mr.U.U.Lalit, Sr.Adv.
SLP(Crl.)Nos.8818-19/2010 Mr.Nitin Sangra, Adv.
Mr.Sangram Singh Saron, Adv.
Mr.Gaurav Agrawal, Adv.

For Petitioner(s)in Mr.Ashok Desai, Sr.Adv.
SLP(Crl.)No.7518/2010 Mr.A.Mariarputham, Sr.Adv.

For Petitioner(s)in Mr.Jatin Zaveri, Adv.
SLP(Crl.)No.8818-19/2010

For Respondent(s) Mr.Ranjit Kumar, Sr.Adv.

In SLP(Crl.)No.6708/2010 Mr.P.S.Narasimha, Sr.Adv.

Mr.Hemant Sharma, Adv.
For Ms. Indu Sharma,Adv.

Ms. Asha Gopalan Nair ,Adv

Mr.Ranjit Kumar, Sr.Adv.
Mr.Siddharth Bhatnagar, Adv.
Ms.Nandini Gore, Adv.
Mr.Sarthak Nayak, Adv.
Ms.Ashlesha Srivastava, Adv.
Mr.Sunil D'Souza, Adv.
Mr.Abhishek Ray, Adv.
For M/S. Karanjawala & Co., Advs.

Mr.Shyam Divan, Sr.Adv.
Mr.Siddharth Bhatnagar, Adv.
Ms.Nandini Gore, Adv.
Mr.Sarthak Nayak, Adv.
Ms.Ashlesha Srivastava, Adv.
Mr.Sunil D'Souza, Adv.
Mr.Abhishek Ray, Adv.
For M/s.Karanjawala & Co., Advs.

In SLP(Crl.)Nos. 8818-19/2011 Mr.Vinay Navare, Adv.
for Ms. Abha R. Sharma, Adv.

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

SLP(Crl.)No.7518/2010:

In this petition, the dispute is with regard to non-payment of a sum of Rs.35 crores by the petitioner(s) to the respondent-bank.

: 3 :

The petitioner(s) are questioning the correctness or otherwise of the order passed by the Bombay High Court in Criminal Writ Petition No.523/2010.

This Court, while issuing notice to the respondent(s), had granted interim stay of the operation of the impugned order until further orders.

After hearing learned counsel for the parties to the lis, we are of the view that the petitioner(s) should be directed to make at least 50% of the cheque amount be deposited to the respondent(s)-bank within a particular time frame.

Accordingly, we direct the petitioner(s) to deposit 50% of the cheque amount with the respondent(s) Bank/institution within eight weeks' time from today. If, for any reason, the said deposit is not made, the interim order granted by this Court on 09.09.2010 shall stand vacated.

We clarify that if petitioner(s) succeed in this petition, the amount so deposited pursuant to our order, shall be returned to the contesting respondent(s) with reasonable interest.

SLP(Crl.)No.6708/2010:

In this petition, the dispute is with regard to non-payment of a sum of Rs.1.29 crores by the petitioner(s) to the respondent(s)-institution.

The petitioner(s) are questioning the correctness or otherwise of the order passed by the Bombay High Court in Criminal Application No.1344/2010.

This Court, while issuing notice to the respondent(s), had granted interim stay of all further proceedings pending before the Metropolitan Magistrate, until further orders.

After hearing learned counsel for the parties to the lis, we are of the view that the petitioner(s) should be directed to make at least Rs.60 lacs of the cheque amount be deposited to the respondent(s)-institution within a particular time frame.

In view of the above, we direct the petitioner(s) to deposit a sum of Rs.60 lacs of the cheque amount with the respondent(s)-institution within eight weeks' time from today. If, for any reason, the said deposit is not made, the interim order granted by this Court on 11.08.2010 shall stand vacated.

We clarify that if petitioner(s) succeed in this petition, the amount so deposited pursuant to our order, shall be returned to the contesting respondent(s) with reasonable interest.

: 4 :

SLP(Crl.)No.8818-8819/2010:

In these petitions, the dispute is with regard to non-payment of a sum of Rs.1.4 crores by the petitioner(s) to the respondent(s)-institution.

The petitioner(s) are questioning the correctness or otherwise of the order passed by the Bombay High Court in Criminal Application Nos.4570 and 4567/2009.

This Court, while issuing notice to the respondent(s), had granted interim stay of all further proceedings pending before the Metropolitan Magistrate, until further orders.

We are informed by learned counsel for the petitioner(s) that the petitioner(s) have deposited a sum of Rs.40 lacs out of the cheque amount of Rs.1.4 crores. However, Shri Ranjit Kumar, learned senior counsel appearing for the respondent(s) would state that the petitioner(s) have paid only a sum of Rs.35 lacs. At this stage, we do not intend to go into the correctness or otherwise of the statement(s) made by learned counsel.

After hearing learned counsel for the parties to the lis, we are of the view that the petitioner(s) should be directed to make payment of at least another Rs.30 lacs of the cheque amount to the respondent(s)-institution within a particular time frame.

In view of the above, we direct the petitioner(s) to deposit

another sum of Rs.30 lacs of the cheque amount with the respondent(s)-institution within eight weeks' time from today. If, for any reason, the said deposit is not made, the interim order granted by this Court on 15.11.2010 shall stand vacated.

We clarify that if petitioner(s) succeed in these petitions, the amount so deposited pursuant to our order, shall be returned to the contesting respondent(s) with reasonable interest.

SLP(Crl.)Nos.628-629/2011:

Notice.

Respective learned counsel appears and accept notice.

Common order in all the matters :

Post all the matters immediately after eight weeks on a non-miscellaneous day for final disposal.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Court Master