

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 (C) No(s).  
15687-15688/2012

(Arising out of impugned final judgment and order dated 30/03/2012  
in SBCFA No. 211/2012,30/03/2012 in IA No. 9714/2012 in SBCFA No.  
211 of 2012 passed by the High Court Of Rajasthan At Jaipur)

M/S MANIAM PROPERTIES P.LTD.

Petitioner(s)

VERSUS

M/S BHARTI RETIAL LTD.

Respondent(s)

(with interim relief and office report)

Date : 03/02/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.Y. EQBAL

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s)

Mr. C.A. Sundaram Sr.Adv.  
Mr. Sumit Goyal, Adv.  
Mr. Jishu, Adv.  
Ms. Swati Agarwal, Adv.  
Mr. Nitin Thukral, adv.  
Mr. Kshatrshal Raj, Adv.  
For M/s. Parekh & Co.,Adv.

For Respondent(s)

Mr. Ajit Warrior, Adv.  
Mr. Neeraj Shekhar,Adv.  
Mr. Ashutosh Thakur, Adv.  
Mr. Rana Prashant, Adv.  
Mr. Sandeep Grover, Adv.  
Mr. Paresh Bihari Lal, Adv.

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

Leave granted.

The appeals are disposed of in terms of the signed  
order.

(Sukhbir Paul Kaur)  
Court Master

(Indu Pokhriyal)  
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1424-1425 OF 2015  
(Arising out of S.L.P.(C) Nos. 15687-15688 of 2012)

M/S. MANIAM PROPERTIES PRIVATE LIMITED Appellant(s)

Versus

M/S. BHARTI RETAIL LIMITED Respondent(s)

O R D E R

We have heard learned counsel for the parties.

Leave granted.

A lease agreement was entered into between the appellant and the respondent containing various terms and conditions including Arbitration Clause. The dispute arose when the respondent issued notices for reduction of rent, which ultimately, resulted in filing of the suit by the respondent for injunction and damages. On being noticed by the Civil Court, the appellant appeared and filed application under Section 8 of the Arbitration and Conciliation Act, 1996 (in short 'the Act') stating *inter alia* that in view of the Arbitration Clause, the suit cannot proceed.

The application under Section 8 of the Act was, however, heard and dismissed by the trial court on 15<sup>th</sup> February, 2012. The appellant moved the High Court under Article 226 and 227 of the Constitution of India. In the meantime, the appellant also filed an application under Order VII Rule 11 of the Civil Procedure Code, 1908 (in short 'the CPC') for rejection of the plaint. In view of the finding recorded by the Trial Court in the order disposing of the application under Section 8 of the Act and also having regard to the provisions contained in Section 18 of the Rajasthan Rent Control Act, 2001, the Trial Court, after hearing the parties, allowed the application filed under Order VII Rule 11, C.P.C. in terms of order dated 16.3.2012.

As against the said order, the respondent preferred an appeal in the High Court being Civil First Appeal No. 211 of 2012. The appellant, in the High Court, moved an application for deciding both the appeal and the writ petition on the ground that common question of law and facts are involved. However, the High Court, by an order allowed the appeal filed by the respondent against the order passed under Order VII Rule 11, CPC and held that the suit is maintainable. Consequently, a direction was given to the Trial Court to proceed with the hearing of the suit. Curiously enough no order was passed on the writ petition filed under Article 227 of the Constitution.

In the light of all these facts and also after giving anxious consideration to the matter, we are of the view that both the appeal filed under Order VII Rule 11 CPC and the writ petition filed against the order disposing of the application under Section 8 of the Act ought to have been heard and decided by the High Court by a common order or by a separate order on the same date.

Taking into consideration all these facts, we pass the following order:-

We request the High Court to decide the Writ Petition No. 4235 of 2012 filed under Article 226 and 227 of the Constitution of India expeditiously.

Till the aforesaid writ petition is decided by the High Court, the Trial Court is directed not to proceed with the suit.

With the aforesaid observations and directions, these appeals are disposed of.

.....J.  
(M.Y. EQBAL)

.....J.  
(SHIVA KIRTI SINGH)

New Delhi,  
February 03, 2015

