

IX

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 5648 OF 1999

Reliance Industries Ltd. & Anr.

Appellant (s)

Versus

State of Maharashtra & Ors.

Respondent (s)

(With application for c/delay in filing counter affidavit)

WITH C.A. NO.5649/1999 to CA No.5653/1999 (With office Report)

Date: 02/03/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE A.K.MATHUR

For Appellant(s)

Mr. Ashok Desai, Sr. Adv.

In CA 5648 & 5649/99

Ms. Anjali Chandurkar, Adv.

Mr. Ashwin Dawe, Adv.

Mr. Ratin Rai, Adv.

Mr. K.R.Sasiprabhu, Adv.

Mr. M.K. Sreegesh, Adv.

In CA 5651 & 5652/99

Mr. R.F.Nariman, Sr. Adv.

Mr. Manu Nair, Adv.

Mr. Dhruv Dewan, Adv. for

M/s. S.A. Shroff & Co.

In CA 5653/99

Mr. R.F. Nariman, Sr. Adv.

Ms. Ruby Singh Ahuja, Adv.

Ms. Saloni Gupta, Adv.

Mrs. Manik Karanjawala, Adv.

In CA 5650/99

Ms. Indu Malhotra, Adv.

For Respondents

Mr. U.U. Lalit, Sr. Adv.

St. of Maharashtra

Mr. S.S. Shinde, Adv.

Mr. Mukesh K. Giri, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned in filing the counter-affidavit.

The appeals stand disposed of in terms of the signed order. No costs.

(J.S.Rawat)

(Kanwal Singh)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5648 OF 1999

Reliance Industries Ltd. & Anr.

Appellant (s)

Versus

State of Maharashtra & Ors.

Respondent (s)

With

O R D E R

These appeals are directed against a common order passed by the Division Bench of the High Court of Bombay disposing of a bunch of writ petitions filed by the appellants, who were writ-petitioners before the High Court.

In the writ petitions, number of points were raised challenging the constitutional validity of Section 7 of The Bombay Stamp Act, 1958 (hereinafter called as "the Act") as to the lack of legislative competence.

The Division Bench though posed the following question at the very outset of the impugned order:

"Whether Section 7 of the Bombay Stamp Act 1958, if seeks to levy stamp duty on the copy of Instrument, suffers from lack of Legislative competence? Inter alia this is a common question involved in these petitions."

but has failed to answer the same one way or the other. The learned judges have gone on the interpretation of Section 7 of the Act without deciding the question of legislative competence of the State Legislature to enact such a provision in relation to Debenture Trust Deeds. Similarly, various other grounds have been taken in the writ petitions to challenge the constitutional validity of the provisions of the Act, but they have not been dealt with in the impugned order.

As these points have been raised specifically, in our opinion, the High Court was required to either hold that the points did not arise or that

the State Legislature had the competence to enact such a provision in relation to the Debenture Trust Deed or to the contrary. Since we have been denied the benefit of the opinion of the High Court on these points, without going into the merits of the dispute, we deem it appropriate to set aside the impugned order and remand the petitions to the High Court for a fresh decision and to record its findings on the validity of the provisions of the Act as well as on merits in the light of its findings on the constitutional validity of the provisions of the Act.

Since the Debenture Trust Deeds have not been produced before us, on a request made by Mr. Lalit, the learned senior Advocate appearing for the State of Maharashtra, we direct the appellants to put on record a copy of the Debenture Trust Deeds on the file of the High Court. It is made clear that mere production of the copies of the Debenture Trust Deeds in file of the Court will not per se attract "duty" under the Act.

Since the points involved in the writ petitions relate to the constitutional validity of certain provisions of the Act and are of general importance, we would request the Hon'ble Chief Justice of the High Court to list the writ petitions before a Division Bench for hearing. As the matters are pending for the last 17 years, we request the High Court to dispose of the writ petitions at the earliest and, if possible, within six months of the receipt of a copy of this order.

Registry is directed to transmit the record to the High Court

forthwith.

The interim order granted by this Court on 27th of September,

1999 in the following terms :

"Pending the disposal of the appeals, the order under challenge shall remain stayed and in respect of bank guarantees, the interim order which had been made by the High Court shall operate."

shall continue to be in operation during the pendency of the writ petitions

in the High Court:

The appeals stand disposed of accordingly. No costs.

..J.

.....
(ASHOK BHAN)

New Delhi;
..J.
March 02, 2005.

.....
(A.K. MATHUR)