

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).15300/2008

(From the judgement and order dated 18/03/2008 in WA No.1/2007  
of The HIGH COURT OF MADRAS)

INDIA CEMENTS LTD. Petitioner(s)

VERSUS

STATE OF TAMIL NADU & ORS. Respondent(s)

(With appln(s) for permission to file additional documents,  
prayer for interim relief and office report)

Date: 02/04/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL  
HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s) Mr. K. Parasaran, Sr. Adv.  
Mr. V. Balachandran, Adv.

For Respondent(s) Mr. Ashok Desai, Sr. Adv.  
Mr. R. Nedumaran, Adv.

UPON hearing counsel the Court made the following  
ORDER

Permission to file additional documents is granted.

Leave granted.

Heard learned counsel for the parties.

The civil appeal is allowed.

[ T.I. Rajput ] [ Savita Sainani ]  
A.R.-cum-P.S. Court Master

[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2133 OF 2009  
(Arising out of S.L.P. (C) No.15300 of 2008)

India Cements Ltd. ...Appellant(s)

Versus

State of Tamil Nadu and Ors. ...Respondent(s)

O R D E R

Leave granted.

By an order dated 6.9.2006, the learned Single Judge of the Madras High Court allowed the writ petition filed by the appellant and quashed the demand of water charges created by Collector, Tirunelveli in lieu of the use of water from Tamirabarani river. The writ appeal filed by the respondents against the order of the learned Single Judge was taken up for hearing on 18.3.2008 from the weekly list of the court and even though none appeared for either of the parties, the Division Bench allowed the same on the ground of availability of alternative remedy and also on the ground that in exercise of jurisdiction under Article 226 of the Constitution, the Court cannot go into the question of interpretation of an agreement.

It is not in dispute that the writ appeal filed by the respondent was not shown in the daily cause list and it was taken up from out of the weekly list without notice to the parties or their counsel and as a result none could represent the parties. This being the position, the Division Bench was not justified in disposing of the appeal on merits.

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Accordingly, the appeal is allowed, impugned order passed in the writ appeal is set aside and the matter is remanded to that Court for deciding the writ appeal on merits in accordance with law after giving opportunity of hearing to the parties.

In the facts and circumstances of the case, the High Court is requested to dispose of the writ appeal as expeditiously as possible.

.....J.  
[B.N. AGRAWAL]

.....J.  
[G.S. SINGHVI]

New Delhi,  
April 02, 2009.